

STAFFORD COUNTY PLANNING COMMISSION MINUTES

June 15, 2011

The meeting of the Stafford County Planning Commission of Wednesday, June 15, 2011, was called to order at 6:31 p.m. by Chairman Gordon Howard in the Board of Supervisors Chambers of the County Administrative Center.

MEMBERS PRESENT: Howard, Rhodes, Mitchell, Kirkman and Hirons

MEMBERS ABSENT: Fields and Hazard

STAFF PRESENT: Harvey, Smith, Stinnette, Zuraf, Ansong, Hudson, Lott and Mayausky

DECLARATIONS OF DISQUALIFICATION

Mr. Howard: Before we vote on adopting the agenda as written, I wonder if the Commission would want to entertain moving item 2 post the public hearings only because there's a public hearing that involves a Conditional Use Permit that is involving really the same property.

Mr. Mitchell: I would make that motion Mr. Chairman.

Mr. Howard: Alright, so... I know we haven't adopted the agenda, but is there a second to move item number 2...

Mr. Hirons: Second.

Mr. Howard: Well, it would be to number 7 basically.

Mr. Hirons: Second.

Mr. Howard: Second? Any discussion? Hearing none, I will call for the vote, changing the agenda as written, moving item 2 to where currently number item 7 is. All those in favor signify by saying aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay? The motion carries 5-0. Is there a motion to adopt the agenda as amended?

Mr. Mitchell: Motion to adopt the agenda as amended.

Mr. Hirons: Second.

Mr. Howard: Any discussion? All those in favor of adopting the agenda as amended signify by saying aye.

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Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay? The motion carries 5-0. That does bring us to unfinished business which is item number 1 which is the reclassification of Clift Farm Quarter.

UNFINISHED BUSINESS

1. RC2900108; Reclassification - Clift Farm Quarter - A proposed reclassification from A-1, Agricultural Zoning District to P-TND, Planned Traditional Neighborhood Development Zoning District to allow a planned urban development, including a mix of commercial and residential dwelling units with neighborhood amenities, on a portion of Assessor's Parcel 38-124, consisting of 141.40 acres. The property is located on the east side of Jefferson Davis Highway approximately 1,250 feet south of American Legion Road and along Eskimo Hill Road, within the Aquia Election District (Falmouth Election District under the recently adopted election redistricting). **(Time Limit: August 16, 2011) (History - Deferred at May 18, 2011 Meeting to June 1, 2011 Meeting) (Deferred at June 1, 2011 Meeting to June 15, 2011 Meeting)**

Mr. Harvey: Mr. Chairman, Mike Zuraf will be giving an update to the Commission.

Mr. Howard: Great, thank you.

Mr. Zuraf: Good evening Mr. Chairman, members of the Planning Commission, Mike Zuraf, Principal Planner with the Planning and Zoning Department. This item to reclassify property to the Planned Traditional Neighborhood Development was deferred from your last meeting on June 1st. The Commission did request some additional information which we did provide to you in a memo. The first item was background information on a soccer complex that is in Rock Hill, South Carolina. We provided some materials that we could acquire before the mail-out. The complex is called Manchester Meadows, so we provided a site plan, part brochure, and some other materials associated with that complex. We did reach out to staff in Rock Hill, South Carolina, to try to get some additional information; specifically, if the staff has any kind of overall economic impact information on that complex. I've not been able to get in touch yet with the staff so hopefully we'll be able to do that and forward that to you sometime soon.

Mr. Howard: Mr. Zuraf, do you know if that... I'm assuming that's... I've always assumed that's a county-owned facility; is that the case do you know?

Mr. Zuraf: I believe city-owned, yes.

Mr. Howard: Okay, thank you.

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Mr. Zuraf: The other request was a comparison of how the cash proffer guidelines would compare and apply to each unit, each type of unit that's proposed in this project. And we did provide that information; it actually was within table 9 of their fiscal impact statement, so that information has been provided. Also, there's a request for maintenance costs of several different county parks. We do have that information for one of the parks, John Lee Pratt Park, and that information was provided as well. You also did receive an earlier version of amended proffers. And then, tonight at your desk, you received some additional or latest revision of proffers that are dated June 14, 2011. These latest proffers that were provided have the main change to those reflect new proffers regarding the recreation fields and that was in response to a meeting that was conducted last Friday with County staff, Mr. Hirons and the applicant and several users of these types of fields. And also we did provide a memorandum to you from the Commissioner of Revenue, Scott Mayausky, regarding his comment on the economic analysis. And then also there was an information request from Mrs. Hazard on how the remaining area of the Urban Development Area could accommodate the remaining recommended developments that's proposed as part of the Comp Plan. So staff provided a memo that provided some general comparison of how much development is remaining and a map that shows the general topography and how that development might be able to be accommodated on the remaining land. And, at this point... oh, in addition, just to let the Commission know, we did send out the application, the latest version of the application out to the Stafford Regional Airport. We got in contact with them; they've not been able to finalize their comments yet but they hope to do that soon as well and will forward those to us. And then also, I did discuss the application again with Scott Horan from the School Board staff and he just wanted me to pass along some of his general comments on the proposal, one being that he understands the concern that there might be with the proximity of the school in the area of the airport and specifically the airport approach and maneuver areas. And then also just to make the Planning Commission... or remind the Planning Commission of the impact of this proposal on the County schools that they've estimated the use would generate 380 students which approximately is equivalent to half the size of an elementary school. But, of course, those students would be distributed among different types of schools, but he just wanted me to pass that along. And, at this point, the applicant will probably want to address some of the changes but I'll answer any questions at this time.

Mr. Hirons: Mr. Chairman?

Mr. Howard: Yes.

Mr. Hirons: Mr. Zuraf, did the schools have... did they see the map of the applicant's proposed or potential areas for school sites?

Mr. Zuraf: We provided that to them this morning and we didn't get any specific comments back on that.

Mr. Hirons: They didn't make comments on that map?

Mr. Zuraf: No, no.

Mr. Hirons: Okay.

Mr. Howard: Before I bring the applicant up, are there any other questions for staff?

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Ms. Kirkman: Yes Mr. Chair.

Mr. Howard: Ms. Kirkman?

Ms. Kirkman: Mr. Zuraf, I had requested the information regarding the County's guidelines for cash proffers. And in your staff report you referred to table 9 out of the economic analysis and that table suggests that if the applicant were to follow the County guidelines, they would pay \$20.7 million in cash proffers. Does staff agree that that is the correct number based on the County proffer guidelines?

Mr. Zuraf: Yes. Staff reviewed this table and all those numbers were accurate.

Ms. Kirkman: And when the applicant, in this latest revision of the proposed proffers, has the applicant proffered any of that \$20.7 million?

Mr. Zuraf: In the proffers there were no specific monetary proffers.

Ms. Kirkman: And regarding Mr. Mayausky's memo... is he here tonight? I thought he had said he'd...

Mr. Zuraf: Yes, he is present.

Ms. Kirkman: Oh, there he is. Mr. Chair, at some point if we could have him step forward? Thank you.

Mr. Howard: Are there any other questions of Mr. Zuraf from anyone? No? Well, why don't we bring up Mr. Mayausky first, if he wouldn't mind, and maybe he can have an early evening perhaps. And I do appreciate you coming down Mr. Mayausky; I know you've worked a full day and then yet here you are this evening helping us navigate through these uncharted waters to a certain extent.

Mr. Mayausky: It is my pleasure; I appreciate the opportunity.

Mr. Howard: So, I think most of us received your letter today via email and have had a little bit of time to review the information that you provided. So, I know there are questions; I'll start with Mr. Rhodes. I'll start on my left and then we'll just work this way, to my right.

Mr. Rhodes: Thank you. Referencing the second page of the memorandum where you were doing some comparisons, particularly the bottom one which is going off the, I guess a bit of an adjusted average value on the homes. Have you done that with any other developments? I mean, what would typically the results be with any other developments? Do you have any that you can compare it to?

Mr. Mayausky: We didn't look at any individual developments.

Mr. Rhodes: Sure.

Mr. Mayausky: I started with Dr. Fuller's averages or numbers that we provided to him when he was preparing this report. Then we went a step further and we wanted to identify what newly constructed homes in subdivisions were selling for, and that is in the next paragraph.

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Mr. Rhodes: Right.

Mr. Mayausky: Dr. Fuller's number included all the homes that were built in Stafford County, which included a number of large acreage homes, and that tended to skew the number a little bit. So they're not broken down on a subdivision basis, they are done on a county-wide basis.

Mr. Rhodes: Okay. I just wondered if that same methodology... if we just applied it on others, I'm just trying to mentally apply it... would they come up with, if they're mixed like that other than just all maybe single-family, would any of them come out to positive numbers at the end of the day? Is there a mixture that works that?

Mr. Mayausky: I believe some of them would. The problem with answering that question is the driver, in terms of the cost of county services, are school children.

Mr. Rhodes: Sure, yep.

Mr. Mayausky: You can have a \$300,000 house with no children and that can pay for itself. I personally have two children so I should be living in a half a million dollar house if you look at the school costs, and I'm not. So, that's kind of the wild card in that factor. But generally a larger neighborhood, typically we'd find them in three acres, Seven Lakes, Christy Farms, the Glens, those types of neighborhoods, they will come much closer to the break even costs.

Mr. Rhodes: And that's what I thought; actually I was trying to apply it and use the numbers and just looking at different subdivisions. But short of one where you've got the larger acreage lots and fairly nicer homes, you're probably not going to come up with the... my intuitive belief is that most of them, if you did this calculation, probably would come out negative as well.

Mr. Mayausky: It gets to be very difficult. A very established and popular neighborhood we have is Austin Ridge. Houses there are selling now in the \$450-500,000 range which would be questionable depending upon the number of children as to whether or not they would break even.

Mr. Rhodes: Right; okay. Thank you; that's where I was intuiting on that. Thank you.

Mr. Mayausky: You're welcome.

Mr. Howard: So, just for clarification then, if you took a neighborhood like Austin Ridge that has 850 homes in that subdivision, that subdivision, as large as it is, on quarter acre lots, would be tough to break even as well.

Mr. Mayausky: It would be.

Mr. Howard: And would the same hold true for the Embrey Mill project that's going to be built there?

Mr. Mayausky: And these figures are based upon Dr. Fuller's.

Mr. Howard: I understand. But you provided them information... you provided Dr. Fuller some...

Mr. Mayausky: We did, yes.

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Mr. Howard: Okay. So would that be the same for Embrey Mill or is that...?

Mr. Mayausky: Yeah, it's kind of speculative...

Mr. Howard: It's hypothetical, yeah.

Mr. Mayausky: Again, it depends on the number of kids and what they actually build, but I wouldn't think in most cases that it would. And I'm not trying to be negative towards the subdivisions, that's just kind of the nature of the beast. As I said, my house doesn't cover my costs.

Mr. Howard: Right. And then the question I had, you didn't consider any of the commercial development, and I understand that the developer is a home builder; the applicant has stated they don't do commercial development.

Mr. Mayausky: Correct.

Mr. Howard: None of the commercial development that's proposed is part of the, you know, analysis that you provided.

Mr. Mayausky: No, and I strictly looked at the analysis that was provided to us. Commercial development quite frankly can be the great equalizer...

Mr. Howard: Right.

Mr. Mayausky: ... when it comes to these types of developments. Obviously, depending upon the square footage and what types of businesses go in there...

Mr. Howard: Is there... based on your experience, is there a business or a mix of businesses that tend to help offset the costs of these residential developments at a fast rate, so whether it's hotel complexes, is it a mixed use of, you know, theater with a restaurant with a hotel and that whole combination?

Mr. Mayausky: Believe it or not, one of the largest... I don't like to use the word cash cows but... one of the largest generators of local revenue we have is these quick stop service stations. The larger national chains, they will generate anywhere between a million to a million and a half dollars in revenue every year. And that's a combination of fuels tax and meals tax because they have deli's, merchants capital, business property... it's the entire basket of taxes. They generate, you might not think it... and I was surprised... but a tremendous amount of revenue. We've done some economic analysis for the Economic Development Department, looking at subdivisions and different types of businesses specifically, and I'd be happy to share that with you all just so we kind of have a framework of what some of these things can generate.

Mr. Howard: Yeah, I think that would actually be very helpful. I'm sure none of us would mind reading through that. That was my main question; I have others but I want to continue to go to my right. Mr. Mitchell, did you have questions for Mr. Mayausky?

Mr. Mitchell: No sir.

Mr. Howard: Ms. Kirkman?

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Ms. Kirkman: Since this memo is new and we just received it, I'm wondering if you could just summarize the main points you wanted to make with this memo.

Mr. Mayausky: Well, what I attempted to do with the memo, when I was reading Dr. Bellas' memo, I had just read Dr. Fuller's memo so the numbers were fresh in my mind. And there seemed to be some differences, some inconsistencies if you will between the break even costs of those numbers. So really, all I tried to do was just connect the dots and raise some questions that I think you all deserve some answers to before you vote on a project like this; especially one where you're setting precedent. So that was my purpose with looking at Dr. Bellas' economic analysis. I feel like we need an answer to the questions as to what the differences between those two studies are. They may be legitimate but I think we're all entitled to understanding what they are because we've been operating under the assumption... some of us have been operating under the assumption that the Fuller study is as close to a published number for breakeven costs and other things as we've ever had. So that kind of, for some of us, became the standard, and to see something that far off of the standard was... it did raise a red flag.

Ms. Kirkman: And just to backtrack, the Fuller study that you're referring to is the study that the Board of Supervisors commissioned to assess the economic and fiscal impact of the Comprehensive Plan.

Mr. Mayausky: That's correct.

Ms. Kirkman: So those were the numbers that were used in evaluating the economics of the Comprehensive Plan that the Board passed in December.

Mr. Mayausky: That's correct.

Ms. Kirkman: And when we're talking about breakeven costs, is that breakeven cost for capital costs or both capital and operating?

Mr. Mayausky: In that I don't know. And that may be... that may answer some of the differences between the two studies.

Ms. Kirkman: And the precedent that's being set here is that the precedent of no cash proffers? Is that what you're referring to?

Mr. Mayausky: That is what I'm referring to.

Ms. Kirkman: Okay. And then you also make the point here, although we haven't discussed it yet, it does seem to say that you think the difference in the valuation of the in-kind contributions could be significantly different than what's been stated by the applicant. Could you review that please?

Mr. Mayausky: I can. Where I lack... I may lack in expertise and economic analysis, I'm fairly comfortable in my ability to estimate value. The 260 acres that are being proposed to... as an in-kind proffer contribution to the County, it's currently zoned A-1. It is raw land. It has infrastructure to the property, water and sewer, but it is undeveloped land. Forty-five thousand dollars an acre for any A-1 property is I believe the highest... I've never seen a value sell that high. When I looked at it, the property is eerily similar in a number of respects to Sherwood Farms. They are both A-1, they're both

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on major thoroughfares, they both at the time of sale had preliminary plans, and ironically half of each property is in an Urban Services Area. I mean, it is as good of a comp as we're going to get for this property. It sold for somewhere in the neighborhood of \$16-17,000 an acre. I'm having trouble seeing the leap from that selling for \$16-17,000 an acre to this land very comparable being worth \$45,000 an acre. Now, the explanation we received was that the \$45,000 an acre was comparing that land to existing A-1 subdivisions, Christy Farms and Seven Lakes and The Glens. The problem is property just doesn't sell that way. All of the infrastructure is already in place in those existing neighborhoods. Raw land sells for considerably less and there are a number of sales that back that up. One of the explanations I heard why the Walton sale was not a comparable is because Walton, upon purchasing the property, eliminated their preliminary plan. Well, to me that speaks to the lack of importance in value of that preliminary plan. If that preliminary plan really enhanced the value of that property as dramatically as we're lead to believe, they wouldn't have eliminated it. They eliminated it so that they could go find a more profitable use for that property. So, I don't think that's an adequate argument to throw that sale out. I still think that's the best sale that we have.

Ms. Kirkman: And, lastly, when you state you have some cause for concern about the proposal to replace the cash proffers with in-kind, you make a statement about some of the infrastructure and transportation projects appear to be both necessary and typical for any development. So, could you explain what you mean by that statement?

Mr. Mayausky: Yeah, and I want to preface this with I am not a transportation expert. But we have a number of court cases with developers where they will come in and they'll argue that their value should be reduced because of the infrastructure costs that they need to make. Well, often those infrastructure costs, like roads, are necessary to develop the project, whether they have proffers or not. So, it seems a little difficult for me to make... for them to make the argument that those roads are an unnecessary burden to us above and beyond because of the proffer system, when really they're not. Some of them are going to be necessary to develop that property anyway. You can't get to a house without a road.

Ms. Kirkman: So, these are court cases that you, as the Commissioner, are involved in because they are appealing the assessment value, is that the context in which this comes at?

Mr. Mayausky: Yes, we've had a number of cases over the last three or four years where we've been sued by landowners and developers, and more and more it comes down to the proffers. And there's an argument about the impact those proffers have on the overall market value of the property.

Ms. Kirkman: Could you say a little more about that? I'm not following quite how the... so it's not about the lack of infrastructure the cases have been around; that there's proffers attached to the property?

Mr. Mayausky: A lot of the proffers that we've seen will say well you have to build an intersection into your property. In most cases that intersection was required anyway. But since it's in the proffer package, we often hear the argument that well that's a negative to our assessed value so it should be subtracted...

Ms. Kirkman: I see.

Mr. Mayausky: ... from that value.

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Ms. Kirkman: And how have the courts ruled?

Mr. Mayausky: We haven't gone to court yet.

Ms. Kirkman: Okay.

Mr. Mayausky: We will know soon.

Ms. Kirkman: Alright, thank you. Well, does that mean then that there's been an agreement reached on what the appropriate assessed value is, or those cases just haven't played out all the way?

Mr. Mayausky: One case was settled irrespective of the proffers. The other cases have not gone to court yet. We have two that are slated to go to court this fall. I might be speaking a little out of school and I might be completely incorrect, but typically I believe courts have not upheld that proffers necessarily affect the market value of the property.

Ms. Kirkman: Okay, thank you.

Mr. Howard: Mr. Hirons?

Mr. Hirons: Mr. Mayausky, I think you may have just answered the one question that came to my mind. Is there any other case law in the Commonwealth that you're aware of that fits this case that has gone to judgment?

Mr. Mayausky: I believe that has been some; I can't cite it. I'd be happy to do the research though and get it to you since we need to do that anyway for this fall.

Mr. Hirons: Either you or Alan, if we could get some sort of that information, I think that would be useful. The other question I had about, in particular, my concern has become the valuation of the land, the \$45,000 per acre. What other characteristics go into the value of the land... location, type of land, topography?

Mr. Mayausky: Yeah, location, topography, access... the preliminary plan can play a role in it.

Mr. Hirons: What if it's just raw land versus raw land?

Mr. Mayausky: Not all of our lands are created equally and the value of that preliminary plan is you have some idea of how many units you get on that property and that's really the driver of what something's going to sell for is the number of units. That gives you much more certainty than if you go out and purchase a large tract of land that doesn't have a preliminary plan. So there is some value in that preliminary plan but, again, I would point to the Walton case and I think that's... they clearly found the value in that preliminary plan or they wouldn't have eliminated it after they purchased the property.

Mr. Hirons: The property that we're kind of talking about, it has a power line easement going through it, it's near a landfill, it's near a jail; do all those things kind of file into the valuation as well?

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Mr. Mayausky: They can, but I'll tell you, the hardest lesson I had to learn when I started appraising for the County 16 years ago is just because I wouldn't want to live there doesn't mean that other people won't. There's a lot of property what say highway takes where front yards completely disappeared and, believe it or not, it's had very little impact on the market value. I can't stand here and say for sure that those are going to have a negative impact on the value of those properties. It may... I have to give you the weaselly answer that the market will determine that. Clearly the soccer fields I think are going to be a tremendous draw. If that phase gets approved, that may balance out. Unfortunately, I think we're just going to have to wait and see. Typically we haven't seen much... I did a power line study years ago when Dominion Power was proposing their power lines, I replicated a J-Lark study that the House of Delegates did and they found that there was a two to three percent negative impact for properties that buffer the power lines. And that's not a lot in a neighborhood; it can be a lot in a county, but it's not a lot in a neighborhood. So, there may be some impact there but unfortunately we can't really assume that, we have to measure it after-the-fact. And I wish I had a better answer for you than that.

Mr. Hirons: If this application were to go forward as it is, at \$45,000 an acre as the applicant's proposing, would you be able to assess it and tax that until it becomes county property at that rate?

Mr. Mayausky: I can't. I have to assess property at its fair market value and I can find no data to support a \$45,000 per acre value on an undeveloped A-1 tract of land. I hate to keep going back to the Walton Group that is the comp for this property. And then we have a number of other... we have some appraisals from folks and some other sales we look at and there's a range that these things are selling for and it is between, typically between low \$16,000 to \$20,000 an acre. And that's what we would have to assess it for.

Mr. Hirons: Thank you. I think Ms. Kirkman may have said it but don't run away.

Mr. Howard: Mr. Mayausky, you mentioned that the, I guess as it's called now, the Walton property, half of that's in an Urban Service Area as well?

Mr. Mayausky: Yes.

Mr. Howard: So how much of that is on water and sewer? You would say 50% and then also 50% of the Clift Farms?

Mr. Mayausky: I don't know specifically how much infrastructure. The comment was made to me, and this is all secondhand, that Walton may actually have a little bit better access to the water and sewer. I don't know if that's true or not.

Mr. Howard: Okay.

Mr. Mayausky: And that may impact the value a few percentage points but not \$30,000 per acre.

Mr. Howard: What has Walton done with that property post purchasing it from the Silver Companies?

Mr. Mayausky: Well, they vacated the preliminary plan...

Mr. Howard: Right.

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Mr. Mayausky: ... and then they went out and they sold interest in the property to Asian investors.

Mr. Howard: How was that interest allocated or defined, do you know?

Mr. Mayausky: It is, I believe, one... it's a very strange number... I believe it's like 1/298th of the parcel for \$10,000. And the deeds were recorded... and I'll check that number, it's a very odd number... the deeds were recorded as such that it was fairly apparent to us that those interests were sold prior to them going to closing; which may have impacted the value also. They may have been willing to pay a little bit more for the property knowing that those interests had already been sold.

Mr. Howard: So they've, in turn, sold interest in those properties and... what would that calculate per acre?

Mr. Mayausky: I'll have to get back to you on that. They are more... they have more than doubled their value in those interests.

Mr. Howard: And yet we'll just tax them at the rate that they purchased it at.

Mr. Mayausky: Not at what they purchased it at; whatever we feel the market... yeah, whatever we feel the market demands. That is such an unusual scenario. Quite frankly, I am researching to see if we can value them at those interests. We can't change the value on that assessment till January 1, 2012 anyway. It is my hope that I can find a way to value them on each of those individual transactions but, legally, I don't know if I can.

Ms. Kirkman: Could I ask a follow-up question?

Mr. Howard: Sure.

Ms. Kirkman: So, what got recorded with those shares, does it have a copy of the contract between the interest purchase and Walton so that you know what it is that they're investing in? Because are they investing solely in the land or are they investing in the land plus development of the land?

Mr. Mayausky: It's my understanding they're investing solely in the land and that they're going to reap their profit when the land is developed. If it gets rezoned, then the value of the land will increase there. Once the infrastructure is in and they're selling lots, the value will then increase again. And it's my understanding that's their business model and that's how they pay back those investors.

Ms. Kirkman: But they use... I'm trying to understand the margin and what the margin that the investor has paid, because they get paid back with some higher price? They don't get paid back just their original money or they wouldn't do it.

Mr. Mayausky: No, purely a hypothetical example. If they paid \$10 million for a tract of land and it was A-1, whether it had an approved preliminary plan or not, it's A-1, and they get it rezoned to a PD zoning, that would increase the value of that property because now you've got greater utility of it, you can get more units per acre. At that time, they... there's some question whether they would sell it to a developer at that point, which is historically I believe been their business model. They'll get it rezoned, ready to go for development, sell it to a developer, take those proceeds and satisfy their

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investors. I have heard they intend on seeing the development of this project through which, in that case, I assume that the investors would be paid back at the time of development when lots were sold.

Ms. Kirkman: And does the contract that's recorded, does it state whether they're paid back on a proportional basis, like on a per share basis, so \$20 million is made so \$20 million is now divided up by 298? Or are they paid back on a fixed rate basis?

Mr. Mayausky: No, I believe it's basically like shares. They're buying shares in stock and I believe they're paid back based upon the number of shares that they have.

Ms. Kirkman: So it's proportional.

Mr. Mayausky: Yeah.

Ms. Kirkman: Okay. Thank you.

Mr. Howard: Thank you. I think the applicant had indicated at the last meeting, and we're going to give them a chance to talk in a minute... we also have to open up for public hearings that we have... that they were valuing based on sort of like post rezoning and here's kind of what we see the value which is why they used those other comps I guess, which is a different comp than what you've used. So, if the rezoning were to go through and all things happen the way this plan is proposed, what would the value of that acreage be?

Mr. Mayausky: What is the zoning of the existing acreage? Would it still be A-1?

Mr. Howard: It's A-1 today. The rezoning would ultimately change at some point.

Ms. Kirkman: If we could get clarification, I'm not sure the zoning changes on the soccer field portion.

Mr. Howard: I don't believe it does. Yeah, they're not in for the change on the soccer field.

Mr. Mayausky: Okay, I didn't believe that it was either. So there's no rezoning, so we're back with the preliminary plan. We won't change that value until they start developing. I mean, they'll file a plan and once they start cutting in roads and building the infrastructure, then we'll increase that value to 50% of a finished lot. But if it just sits with a preliminary plan, I don't think that value will increase because I don't see in the market where that preliminary plan adds enough value to that property to warrant us increasing it.

Mr. Howard: Yeah, I think they're... and we're going to let them talk in a minute and I wanted to understand your thinking before they get up... they're thought was, from what I recall when they presented their findings or their fiscal analysis, they were valuing it based on kind of post the project. So you're saying that's not at all what you looked at; this is just kind of current status state today what this land would be valued.

Mr. Mayausky: Yes. My job is to figure out what it would sell for...

Mr. Howard: Today.

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Mr. Mayausky: ... today basically.

Mr. Howard: Alright, I want to make that clear. Well, if you could stay, there may be further questions; I'm not sure what your time is but I appreciate your coming down here and helping us navigate through this. We'll now hear from the applicant.

Mr. Leming: Mr. Chairman, members of the Commission, good evening.

Mr. Howard: Good evening.

Mr. Leming: I'm Clark Leming here on behalf of the applicant. And let me start with a question. When we were here at the last meeting, there were a number of changes to the proffers that we discussed that we have made. You all should have red line versions of those. They deal with all of the various and sundry issues and questions that came up previously. It seems to me, and whatever your preference is, we're here at your pleasure. It seems to me that you all can go through those and perhaps our time is better spent addressing the issue that you've been discussing while it's still fresh on everybody's mind. So, your pleasure. My intention yesterday, until I saw Scott's memo, was to talk about the proffers and what we've done with the athletic fields and the new proffer that has come in on that. But we can shift if that would be more assistance to the Commission.

Mr. Howard: I think we're going to want to know about the changes in the proffers as well from your perspective, but we also... I'm sure we all want to hear the answers to some of the questions that have just been reviewed.

Mr. Leming: Alright. Well, let me take one step back, and we have Dr. Bellas here and he's going to respond to part of the questions that Scott has raised. Step back; cash proffer guidelines. The County last conducted the methodology necessary for the cash proffer guidelines in 2005. There have been some subsequent increases based on inflation, but we're dealing with a 2005 methodology. So, it is all in need of updating. The capital costs have not been updated, the number of dwelling units is wrong because the Comp Plan has changed. It was based on 36,000-some-700 back then; we're now dealing with 43,000, almost 44,000 units. The major methodological flaw in the current cash proffer guidelines, in my view, is this... the guidelines are based and provide for payments that cover the value of current capital deficiencies, what is needed in the way of infrastructure; in other words, now, based on development that is already here, not future development. Proffers are intended to offset the impact, mitigate the impact of future development. Now that's in the formula too, based on what's projected under the Comprehensive Plan; that's part of the methodology. But, the reason the cash proffer guidelines are so high, and I think... I encourage you to investigate this if not with conjunction with this application generally because it needs to be done. The reason they are so high in this County and perhaps in Spotsylvania County, is because those two values are mixed; what you need to come up to speed currently in the way of infrastructure plus what's projected for the future. It's not the responsibility of the current zoning applicant to pay for what is necessary now. Legally it is that applicant's responsibility to pay for future impact and future infrastructure. Now, Mr. Bellas may approach that more from an economic standpoint but I wanted to be sure that the Commission understood that that was part of the current methodology, and all of that needs to be revisited. When we went to public hearing on this, I advised the Commission that we were reading the language, the narrative language, under the UDA for this area, that it spells out the infrastructure that is necessary, that it is not possible for the applicant to provide the infrastructure that's spelled out in your Comp Plan narrative and pay cash proffer guidelines. A question was asked whether or not we would, by Ms.

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Kirkman, whether or not we would shift and go over to cash proffer guidelines and I said no. And there are two reasons for that. One is that's not how we read the Comp Plan and what's called for there, but secondly it has to do with the problems with the current cash proffer guidelines. And we went over the fact that you don't have anybody paying those guidelines; this County receives very little in the way of cash proffers. There have been two projects that have even attempted; one that was approved in 2005, Forbes Landing, that is now the site for a church because it was over-proffered, and the previous development on this property was pulled in 2007. It offered to pay the cash proffer guidelines, the application was withdrawn as the economy started to go in the other direction. So the reality of the situation is that you're not going to get a UDA applicant in here, you're not going to get any kind of residential applicant in here, that can pay the current cash proffer guidelines. There's a problem with them and that needs to be investigated independent of anything else. There is also, and we pointed out the problem with the approach, and the UDA narrative approach calling out the infrastructure necessary provides an opportunity to get away from that. What the proffers do for the County is to give you a payment at building permit. It does not provide the basis to go out and hire a contractor. Mr. Harvey can bring you up-to-date on what we actually receive I imagine in the way of cash proffers here. But it doesn't come in in any way that the County can do very much with it except perhaps address a revenue stream in part on some bond that's been issued. But it's not money that can be easily converted for County projects. The UDAs go in a different direction. They say here's what we want associated with this UDA, so that's what we have attempted to give you. Now, with that background, that has been our position, that remains our position. We understand that there may be issues that we need to address based on the economic analysis we put together. And we had two parts to that. The first was to demonstrate what the overall economic benefit to the County was of the project; that's part A of Dr. Bellas' analysis. Then, we also looked at the value of all of the infrastructure that was proffered and we're talking some about that tonight, the value of the land. The issue, the point of that, was to provide a point of reference for purposes of the proffer guidelines. The issue, though, is what is the bar going to be? If the bar is, that is the standard that we must attain, the current cash proffer guidelines, we can't do it. We can't do it and would not attempt to do it because of the problems that we've cited. Now, if the bar is does this thing pay for itself, can the County rest reasonably assured that this is not going to be an economic drain on the County that is the purpose of the first analysis, the first portion of the analysis. Now, what I'd like to do, Dr. Bellas is going to address the issue of the differential and the breakeven analysis, and I think there are a lot of differences in what Dr. Fuller did and what Dr. Bellas has planned to do. You will recall that these gentlemen are colleagues, worked together on many projects. But I want him to address that. I want to jump to the second part of the analysis just a minute and that is the valuation, specifically the real estate values. It is true that I'm involved in some of the other cases that Scott had mentioned. The art of appraisal is something of a mystery to me and when we call in appraisers on cases, they can have widely divergent perspectives as to what value is. One case we currently have with the County over a five year period, we have differences in values, the County valuation versus our appraiser... this is Embrey Mill as a matter of fact... of some \$60/70/80,000... a million dollars, I'm sorry... in the way the land is appraised, so a widely divergent assessments, appraisals in land valuation. What we did here was to look at this property as it would be when the parent tract that is the part's that before you on the TND, was rezoned. Because none of this happens, none of this is relevant if there's not a rezoning. What would that land be worth? It's A-1 land with an approved plan, with a construction plan pending with a right, because we went through a 456 review, with a right to extend water and sewer to the entire development, to all of the perspective by-right units on the development. That's approved, that's in place. Then what would that land be worth next to the TND? Now, of course, it's not going to be used for that, it's going to be used for soccer fields. But how do we affix a value to that land? So we went out and we looked at other by-right developments that are in the County now, except for the Seven

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Lakes, all of which also have empty unimproved lots. The main infrastructure associated with those developments is roads, because they're not on water and sewer unlike this one would be. Now the issue of the Walton purchase came up. As some of you know, I represent Walton. There is some misinformation that Scott... I don't think he intends to do that but he's given you some wrong information about the ol' scenario there, particularly with regard to the investments and the model and even who the investors. There is an Asian market, there's also a European market and others. But I don't want this to become a discourse on what Walton is doing. The point that I want to make is that as part of the consideration for that purchase, there was an agreement between the parties to vacate the by-right plan, including the right to use the pump station, because Walton didn't want to maintain those bonds. They have no use for that particular kind of development. That's not what they do. That's not how they return their investment to their investors. And they pool that money in to do the development and they are the developer in these projects; they then sell to builders. So, that's why... and even if you go back originally... the water and sewer was only available for a portion of that property, the Sherwood Forest property. There are a number of tracts that Walton pulled together there for that transaction. So, you know, is it a comparable? Yes there are some similarities. Is this purchase price representative of what somebody else would have paid for it if they were going to go in and develop it by-right on the approved preliminary plan and the plat that had gone to record plat and the pump station that had been built, all of which Walton is disavowing? I don't think so. I think it would have been significantly higher. But, to resolve all of this, maybe what makes sense is to bring in one or two of these appraisers. If the County wants to have somebody look at it, we can have somebody look at it and let's hear what these experts have to say about that. And I think you'll come to fully appreciate the divergence that can evolve in the way these properties are assessed and the methodologies that are used for appraising; all of which I've become a little bit too acquainted with. Those are the points that I wanted to make with regard to the valuation that we used. Now, I also want to point out that we can drop that value in half and still have a very favorable comparison to even what the current, to the extent that there's any validity to them, the current cash proffer guideline total is. I also told you that because of the nature of this, it's not possible to spread proffers or values across all these cash proffer categories and meet the language in the Comp Plan narrative. It's simply not possible to do both of those things. So, we understand that this is new. We're willing to work through this with you. We've submitted something that we think makes sense from our standpoint. If adjustments to it are necessary, we'll make those adjustments. And what we're interested in doing is demonstrating the significance of what is being proffered here in the way of infrastructure. We also... and I have a slide but I don't want to take up all your time because I want Dr. Bellas to talk to you... I do have a slide here that actually sets... we factor out... the issue came up of how much of these things that we've listed, keep going, keep going, keep going... are these ours Debrarae?

Ms. Karnes: Yes, these are ours.

Mr. Leming: Okay, keep going, keep going... next. Okay. What we did was to eliminate those things that had been listed that we felt were clearly driven by the development itself. For instance, the intersection improvements at our major road that came in, we dropped them out and added... and several others that were unique to the project and if you're looking at it from the standpoint of proffered infrastructure for the project versus proffered infrastructure beyond the project, that's what we tried to do to clean it up. And you all can peruse this at your leisure; I'm sure the staff can make copies of it but this is still where we end up. Very close to where the cash proffer guidelines are, further adjustments can be made in the value and buried in mind what I've indicated about the problem with the current cash proffers, I still think there's a very favorable comparison here. Bottom line from our standpoint is that we can't do both; you know, we can work with you on the methodology. We

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understand that there may be precedent that would be set here for other UDAs but there's only so much that anyone in this economy can do. And you don't have anybody else that's going to come up before you and offer to pay your current cash proffer guidelines, it's simply not going to happen. Let me turn things over to Dr. Bellas and ask him to address the breakeven issue because I think there's some pretty logical explanations for that.

Mr. Howard: Alright, we have five minutes. You're more than welcome to stay post the public hearings, if that's your desire to answer some additional questions.

Mr. Leming: Whatever your pleasure is.

Mr. Howard: Well, I would prefer that. Let him go for the five minutes and then I'd like you to stick around if you could. And just to remind you that in the Comp Plan, in Chapter 2 I believe it is, it specifically says that development, you know, must pay for itself and attempt to mitigate all impacts in the County. So, that's a guiding principal behind the Comp Plan.

Dr. Bellas: Good evening. For the record, Dr. Dean Bellas with Urban Analytics in Alexandria, Virginia. I will speak as quickly as possible during the five minute limitation. I received this memorandum late this afternoon, roughly three o'clock, and if I had some more time I would have probably prepared a written response to it. However, I will do my best to answer your questions as quick as possible. On page 1 of the memorandum, and Mr. Mayausky... am I pronouncing it? Please forgive me if I'm pronouncing your name wrong. There's a table that shows breakeven values under Dr. Fuller's name, 512,500 for single-family development, 496,000 for townhome, 308,000 for multi-family. To the casual reader or someone reading this very quickly, the reader may presume to think that these are breakeven values calculated by Dr. Fuller and reported in Dr. Fuller's report. It's very important that you, as the Planning Commission, understand nowhere in Dr. Fuller's report are these numbers listed. Dr. Fuller did not calculate breakeven values at all in the study that he prepared for the County last year. I reviewed his study again today, I've reviewed it in the past, I've had colleagues of mine look at it and they all confirm that nowhere in this study from Dr. Fuller are these numbers. This leads me to believe that these numbers were calculated by Mr. Mayausky or his staff. At the bottom of page 1, Mr. Mayausky makes a statement and I'll read that, "Though Fuller's report may not be perfect and the breakeven cost can be an elusive number his number seems to be more grounded in economic reality given Bellas' breakeven cost does not even cover the cost of education spending let alone the cost of all county services". This statement implies that in my fiscal analysis, I did not fully account for county services and public education; however, Mr. Mayausky then prepares a table directly below that and under the column that says total costs, he lists my numbers and the numbers that come from my report. In that report it clearly states that all of these numbers under this column, the \$1.32 million, the \$1.2, the \$3.8, they all include public education and there's a separate table for each type of housing unit that clearly shows item by item all the county services that were included in the analysis including public education. So, in the beginning he makes a statement that my report does not include public education services or completely include all county services and yet he turns around and acknowledges my report. And in my report it's clearly stated that these costs are included. The third item I'd like to bring up is there's a table, as you look at these two tables on page 2, I was trying to very quickly understand how Mr. Mayausky calculated the fiscal breakeven point. And it appears what he's done is he's taken the assessed values of the houses, multiplied them by the appropriate methodology to get the tax per house times the number of units. That is how we calculate real estate tax revenues. However, the definition of a fiscal breakeven point is total revenues minus total expenditures equals zero. So, what we want to know is not only the fiscal structure of the house itself,

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but the inhabitants of that house, all the various forms of tax revenues that they generate to the County are included. And if Dr. Fuller were here he would support that argument because that's the methodology he uses as well in calculating fiscal impact breakeven points. So what we have here is we have tables that say that based on the real estate assessed value alone, the real estate does not generate enough revenue to cover costs. But what Mr. Mayausky has not included in these tables is the fact that there's so much other revenue and non-tax revenue collected by the County that are generated by these households who have higher than average disposal household income and are pumping money into the local economy. This is why, in my report, we both have an economic impact analysis and a fiscal impact analysis. So on the surface you cannot, you cannot say that the fiscal breakeven point on page 1 are these numbers that Mr. Mayausky calculated because unfortunately it's just the incorrect methodology. Dr. Fuller and I, for those who don't know me, we're both professional colleagues and personal colleagues. I received my doctorate under Dr. Fuller at George Mason University. For my doctorate, I actually developed with my dissertation research a fiscal impact methodology that is a methodological improvement over all models developed over the past 75 to 80 years. Part of your process of doing your dissertation research is to do literature review and I looked at all the models all across the country and I came up with the strengths of these models, the weaknesses of these models, and I came up with a new model that corrects for all these weaknesses. Dr. Fuller was on my dissertation committee. Included on my dissertation committee was Alice Rivlin who, at the time, was the Vice-Chairman of the Federal Reserve System under Alan Greenspan. So, I had a highly educated dissertation committee who reviewed my work, including Dr. Fuller, and they all signed off on my methodology.

Mr. Howard: Okay, we get that. And we have to pause at this moment. We recognize that there are clearly different ingredients if you will in both studies, and I think Mr. Mayausky pointed out that his study focused clearly on the tax revenue that would be generated versus yours has the tax revenue and also other revenue that would be created by the occupants or the habitants of these dwelling units. So, we're going to pause and now need to open up the meeting. Thank you very much.

Dr. Bellas: Thank you.

2. RC2900193; Reclassification - Aquia Hilton Extended Stay Hotel - A proposed reclassification from R-1, Suburban Residential to B-2, Urban Commercial Zoning District to allow a hotel on Assessor's Parcel 21-63 consisting of 3.02 acres, located on the west side of Jefferson Davis Highway, 600 feet north of Coachman Circle (south access) within the Aquia Election District. **(Time Limit: August 30, 2011) (Deferred at June 1, 2011 Meeting to June 15, 2011 Meeting)**

Discussed after public hearings.

3. Rappahannock River Overlay District and Potomac River Overlay District (Referred back by Board of Supervisors) **(Time Limit: October 6, 2010) (History - Deferred at June 16, 2010 Meeting to August 18, 2010) (Deferred at July 21, 2010 Meeting to September 1, 2010) (Deferred at September 1, 2010 Meeting to October 6, 2010 Meeting) (Deferred - Requesting additional time from Board of Supervisors)**

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NEW BUSINESS

4. Telecommunications Plan (**Time Limit: August 1, 2011**)
(*Authorize for Public Hearing by: June 15, 2011*)
(*Potential Public Hearing Date: July 13, 2011*)

Discussed after public hearings.

7:30 P.M.

PUBLIC PRESENTATIONS

Mr. Howard: We'll open up the meeting for public presentations so anyone wishing...

Mr. Leming: You'd like us to wait.

Mr. Howard: If you could wait that would be great. Anyone wishing to address the Planning Commission on anything that's not a public hearing, and I would point out that item number 7 on the public hearing which is an amendment to the zoning ordinance, proposed Ordinance O11-26, if you're here for that this evening, that public hearing was cancelled. When we get to item 7 we'll have a quick two minute update as to why it was cancelled and what the next steps are if you want to wait around for that. So we're in public presentations; anyone wishing to address the Planning Commission, again, anything that's not scheduled for a public hearing and item 7 is now not scheduled, may do so by stepping forward to the podium. We just ask that you state your name and address and you have three minutes to address the Planning Commission. When the green light goes on your three minutes begin, the yellow light goes on you have about a minute left and then the red light flashes, we ask that you conclude your comments and allow the next speaker to address us. Anyone wishing to address the Planning Commission may do so now.

Mr. Waldowski: Computer please. Paul Waldowski. That's where Waldo lives. I bring up the Stafford County map because I thought this was George Washington's boyhood county but I see we have Sherwood Forest, I guess Robin Hood is living here, and I guess the Walton's are here too now. Just seeing if you're listening. I want to remind all the citizens that it's still not too late to contact the Chief Voting Section of the Civil Rights Division of the United States Department of Justice if you have any comments to provide in regards to the redistricting. Next slide please. Of the 95 counties, you all know that 80% of our county is available for land use due to Quantico and the other aspects, and today's topic is... next slide please... UDAs. Can you hit the next button please? As you know, when we started the process of UDAs, which is based off density, density, density, just like businesses are location, location, location, we had eight UDAs in a county that's so small it's unbelievable. And now you're facing the first that I've been listening to as unfinished business as we're trying to get some kind of ordinance passed. Next bullet please. Then we went through a series of 6, 6, 6 and if you haven't found out the bottom line is now it was passed last week that we have seven UDAs. So all your work of a 4-2 by the Planning Commission, you need to go back to the drawing board and watch the Board of Supervisors, it was quite interesting because they all raised their right hand and they were all afraid that they might go to jail if they didn't vote to get the seventh UDA. It just amazes me what goes on. Now the reason I bring this slide here is for one reason, is in Resolution I think it's R11-151,

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we now have a new citing of the UDAs and they're numbered UDA 1 through 7. But UDA 4 is not in that Resolution and maybe that's a mistake, maybe it was on purpose it's missed, but that UDA is not in that Resolution, that's why I have the blank lines. And this is the one time that I know you don't like to talk back to me because I love this forum because I get to talk to you but I would really like to have that blank filled so when I go bother the Board of Supervisors with this I like to have the facts as accurate as possible. And, to conclude, tomorrow is the beginning of the U.S. Open at Congressional and good luck to Matt Kuchar and Phil Mickelson. Have a good day.

Mr. Howard: Thank you. Anyone else wishing to address the Planning Commission may do so by stepping forward to the podium. Seeing no one else advancing during the public presentation portion of the meeting, I will now close the public presentation portion and open up our first public hearing. Our first public hearing this evening is CUP1000147 which is a Conditional Use Permit for the Aquia Hilton Extended Stay Hotel.

PUBLIC HEARINGS

5. CUP1000147; Conditional Use Permit - Aquia Hilton Extended Stay Hotel - A request for a Conditional Use Permit for an exception to the maximum floor area ratio (FAR) from 0.4 FAR up to 0.46 FAR for a four-story hotel with 100 rooms on Assessor's Parcel 21-63, consisting of 3.02 acres, located on the west side of Jefferson Davis Highway approximately 600 feet north of Coachman Circle (south access) within the Aquia Election District. **(Time Limit: September 13, 2011)**

Mr. Harvey: Please recognize Amy Ansong for the presentation.

Ms. Ansong: Good evening Mr. Chairman and members of the Planning Commission.

Mr. Howard: Good evening.

Ms. Ansong: I stand before you tonight to present the CUP for the Aquia Hilton Extended Stay Hotel. Computer please. I stand before you presenting the CUP for the Aquia Hilton Extended Stay Hotel which is CUP case number 1000147. The applicant is Stafford Hospitality LLC. The agent is H. Clark Leming. The tax map parcel is 21-63 and it is located on the west side of Jefferson Davis Highway approximately 600 feet north of Coachman Circle, south access. In terms of site area, it is 3.02 acres. This CUP for the Aquia Hilton Extended Stay Hotel is a request for an increase in the floor area ratio from 0.40 to 0.46. Here is the zoning map. The parcel is currently zoned R-1; it is subject to the approval of the concurrent zoning reclassification application which is requesting a rezoning from R-1 to B-2. The parcel is outlined in red, 21-63. This is an aerial photograph of the tax map 21-63 of the proposed site for the Aquia Hilton Extended Stay Hotel. In terms of what exists on the site right now, there is currently a residential house on the parcel. In terms of access, there is only one access to the site which is directly connected to Jefferson Davis Highway. There is a stream along the southern edge of the property, Shorts Branch stream, and there is also RPA and floodplain on the site. Here we have the GDP for the proposed Aquia Hilton Extended Stay Hotel. In the middle of the GDP is the proposed hotel for the site. Currently, assuming that the reclassification is approved and it is allowed to go from R-1 to B-2, with the CUP, if the CUP is allowed, it's requesting to go from a .40 FAR to .46. Currently the .40 ratio would allow them to have a hotel with the square footage of 52,571 square feet, but the request for a .46 FAR would allow the hotel to have a square footage of 60,500 square feet. Also on this GDP are the parking spaces; there are 100 parking spaces. The entrance to this site

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is directly connected to Jefferson Davis Highway. There is only one entrance to this site. Also, along the bottom of this GDP there is a six foot wide woodchip trail which runs along the southern edge of the property. Here is a depiction of the building what the applicant intends to put on this site, tax map 21-63. This hotel is by Hilton; it is called the Home to Suites Hotel. And when you look at the website in terms of what's so special about this hotel, it states that it's supposed to be like an eco-friendly hotel. It's for the like hip generation; they want people to come to the hotel and feel that they are at home. Therefore, that's why it has the name Home to because you feel like you're at home as well. And in terms of eco-friendly, they're going to have like recycled carpeting, they're going to have permanent amenities in the bathrooms to reduce the plastic waste. And this Home to Suites Hotel, it's the first new brand of hotels for the Hilton chain within the past 20 years. The first one opened in North Carolina this past February in 2011 and Hilton does intend to have 60 of these types of hotels within the United States in the upcoming years. In terms of the State of Virginia, they are planning on building three of these types of Homes to Suites Hotels. They plan on having them at Dulles Airport, the Norfolk Airport, and they also plan on having one in Woodbridge around the Potomac Mills area. Here the proposed condition for the CUP is to allow for a maximum floor area ratio associated with the hotel up to 0.46 floor area ratio. The development of the site shall be in general conformance with the GDP. In terms of the Comprehensive Plan, the land use designation is suburban within the commercial corridor and the Comp Plan does encourage infill development and commercial development along the arterial transportation corridors. Also, the proposed use, the hotel, is consistent with the land use designation. In summary, the proposed hotel is compatible with established commercial developments and it is in compliance with the Comp Plan. Staff does recommend approval of the conditions proposed in Resolution 11-182. Are there any questions?

Mr. Howard: Thank you Ms. Ansong. I'll bring it back to the Planning Commission. Are there any questions of staff at this time?

Ms. Kirkman: Yes, Mr. Chair?

Mr. Howard: Ms. Kirkman?

Ms. Kirkman: Could you please explain how increasing the floor area ratio, in other words, building a larger hotel, is decreasing the amount of encroachment into the Resource Protection Area?

Ms. Ansong: Say that again?

Ms. Kirkman: In your presentation and in your staff report you make the claim that by increasing the floor area ratio, the encroachment into the creek buffer will be decreased and I'm trying to understand how that works.

Ms. Ansong: Let's see exactly how I worded it. They are increasing it by four... let's see, they are encroaching into the RPA but that's their primary structure. Where do I say that?

Mr. Howard: Do you recall what page it was on?

Ms. Kirkman: Yeah, actually I may be looking at the rezoning application.

Ms. Ansong: Okay.

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Ms. Kirkman: I'll have to locate that.

Ms. Ansong: Okay.

Ms. Kirkman: So, how much is the hotel encroaching in the RPA?

Ms. Ansong: Well, if it stayed within the maximum floor area ratio of .40, the square footage would be 52,571. But by requesting the FAR to increase to .46, they are... the hotel square footage would be 60,500 square feet.

Ms. Kirkman: Right, so how many square feet of the hotel is in the RPA?

Ms. Ansong: That I would have to check for the exact number.

Ms. Kirkman: Alright, thank you.

Mr. Howard: Okay, any additional questions for staff? Hearing none, we'll now ask to hear from the applicant.

Ms. Karnes: Good evening Planning Commission members and staff, my name is Debrarae Karnes. I'm an attorney with Leming and Healy here representing the applicant, Aquia Hilton Extended Stay, and their product, Home to Suites. You heard us before you last time presenting the request for a rezoning for this property to change the property to a commercial zoning to permit the construction of a hotel on a very narrow parcel of land on Route 1. We are here tonight on a concurrent application. And the purpose of this application is only to increase... to request the increase in the FAR from .4 to .46, although I'd certainly be happy to answer any other questions concerning the rezoning application at this time. The Zoning Ordinance allows the government to allow an increase in the FAR and we have requested this increase specifically because it does reduce the impact on the environmental features on the site. You may recall that when we originally submitted this application, we had requested an increase from .40 to .43. We subsequently received comments from the Fire Marshall asking us to pull back just a bit from the environmental feature to allow better access for fire trucks, and that changed us to reconfigure the footprint to a slight degree and increase the FAR to .46. Bottom line, the hotel's footprint comes back just a bit and the hotel goes up. You're getting more square feet because of the total size of the hotel and the height, you are reducing slightly the encroachment into the FAR. Now, I just asked the engineer to calculate the exact square footage of a hotel within the 50 foot buffer. And I'd say... I'm going to turn around and ask him right now... but I think it's approximately half of the hotel. I'm going to bring up planner, Steve Grant.

Mr. Grant: Good evening. And I'm going to read from the Water Quality Impact Assessment because that's where our environmental folks actually calculated the encroachment. And actually they don't say in terms of encroachment, they state in terms of disturbance and the final impervious surface. Construction of the hotel building will disturb approximately 11,082 square feet which is about a quarter of an acre of the RPA. It will result in approximately 8,000 square feet of .19 acres of impervious surface area. That's what the impact of the building will be.

Mr. Howard: Thank you. Ms. Karnes, how many additional rooms would be generated by increasing the FAR?

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Ms. Karnes: We originally started with 90 rooms and have gone up now to 100.

Mr. Howard: So there's 10 additional rooms?

Ms. Karnes: Approximately.

Mr. Howard: Approximately? Do you know what the County revenue is per room that we receive?

Ms. Karnes: I do not have that calculated by room. I can tell you that the applicant believes that it's going to take a hundred rooms to make this an economically viable project.

Mr. Howard: Right. Okay, and I thought you were done but if you have additional...

Ms. Karnes: I only have one thing.

Mr. Howard: Okay.

Ms. Karnes: And that is, this is not the first time in the County that a hotel particularly has been granted increased FAR. The staff planner did an excellent job in her staff report identifying some of them. Also, a Holiday Inn on Garrison... I'm sorry... on Route 17 was approved a few years ago with a .73 FAR and the Staybridge, of course, was approved at a .89. We think this hotel is consistent with the surrounding development on a commercial corridor and we think the request for a conditional use permit to increase the FAR is appropriate if, of course, you also act favorably on the concurrent rezoning application.

Mr. Howard: Thank you. Are there any questions of the applicant? Mr. Hirons?

Mr. Hirons: The only question I have is some of the terminology confused me a little bit of what you used. You said something along the lines of it brings the footprint back. Does it actually make the footprint any smaller with the increased FAR or is it just making an extra floor or rooms bigger?

Ms. Karnes: You know, it doesn't have much of an effect. It really has... but it does move the hotel back and make it a little smaller.

Mr. Hirons: I'm still confused I think as Ms. Kirkman is on how that improves the environmental impact on... the environmental surrounding I think you stated.

Ms. Karnes: To the degree we're moving it, the hotel footprint further away from the existing RPA, that's what we consider the improvement.

Ms. Kirkman: But Ms. Karnes, you can move the hotel back without the FAR increase, correct?

Ms. Karnes: We could but we could not get the minimum necessary size that the applicant has advised he needs to make this an economically viable project.

Ms. Kirkman: But that's a totally different issue. You seem to be tying this with improving you know some so-called environmental benefit. You can move the hotel without an increase in the FAR;

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because you want the FAR for so-called economic reasons and that has nothing to do with the RPA. Correct? You can move the hotel without the FAR.

Ms. Karnes: We could not build the hotel we want.

Ms. Kirkman: That's not what I asked; what I asked can you move the hotel back period.

Ms. Karnes: Certainly we could make the hotel move back but it would not be economically viable.

Mr. Howard: Okay.

Mr. Hirons: Mr. Chairman, I have a follow-up question to Ms. Kirkman's I think. Then if you could not build the hotel you wanted so then would you bring in another model of hotel?

Ms. Karnes: It's my understanding from the applicant...

Mr. Hirons: Are there other models that would fit in this without increasing the FAR?

Ms. Karnes: The issue with the applicant is that it's a question of what makes the project economically viable. And so it's not a question of looking for other models if you will; he is committed to this brand. This brand does have a proto-type building and he is accomplishing it in his design, and with we think adequate environmental protections as part of the accompanying rezoning.

Mr. Hirons: Okay, thank you.

Mr. Howard: Ms. Kirkman?

Ms. Kirkman: We heard from staff that this is part of a brand new line for Hilton Hotels that's going to be eco-friendly. So, is it your applicant's position that building in creek buffers is eco-friendly?

Mr. Rhodes: Did they say that?

Mr. Howard: Well, so is this a legitimate question or are you making a statement?

Ms. Kirkman: No, that is a legitimate question.

Mr. Howard: Okay, so is...

Ms. Kirkman: Part of the staff report was that one of the innovative things about this hotel is that it's eco-friendly. So, I'm asking is Hilton's definition of eco-friendly include building in creek buffers.

Ms. Karnes: Well, I'm not representing Hilton so I can't speak for Hilton. I can tell you that my applicant's position is if this hotel is designed in a way that even though it's located within the 50 foot leeward RPA, the design mitigates impact on the environment and on water quality.

Mr. Howard: During the functionality and the operation of the hotel, not on site plan or building of the hotel.

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Ms. Karnes: Well, we will have to submit a water quality... a major water quality as well as other environmental studies that shows that we are protecting the environment. So, I'm talking both in terms of the internal hotel functioning and the site design.

Mr. Howard: Alright, thank you.

Mr. Rhodes: Mr. Chairman?

Mr. Howard: Yes, Mr. Rhodes?

Mr. Rhodes: Is any of the design of this line of hotels, do they go for lead certification? Just curious in their (inaudible).

Ms. Karnes: Lead certification per se isn't part of this; however, I do have information about the Hilton brand and their specific commitments to environmental protection, including using special energy-saving appliances, carpet and surfaces made from recycled projects, and other issues. And I probably can get you some paperwork that more fully describes that approach.

Mr. Rhodes: Great. Okay, thank you.

Mr. Howard: And Ms. Ansong mentioned a few other things that the hotel does in terms of the soap dispensers and that type of thing versus a trial size bottle and that type of thing.

Ms. Karnes: Yes. Now the other thing I think is cool is that this hotel, as an extended stay project or product, tries to emphasize the home-like atmosphere. To make people more comfortable in it they include some innovative design techniques that cumulatively are supposed to encourage a sense of place and a sense of community that, as a planner, I think is real exciting.

Mr. Howard: Very good. I still have a question... I don't know, Mr. Harvey, if you can answer the question. And I'm assuming, making a financial assumption, let's say 10 extra rooms is \$300-400,000 in revenue a year for that type of hotel based on a turnover rate of let's say one to two turns... well, let's just say two turns, maybe three turns a week, in those rooms. I don't know what the turn rate is but I'm just curious as to the room tax and how does the county... I know we have a tax so I'm not sure, I would think it's a positive for the County to have that because that's reoccurring every time that room is turned and rented. Do you know what that rate is?

Mr. Harvey: No, Mr. Chairman, I do not know that rate. We'll probably have to check with the Commissioner of Revenue to find out information for you on that.

Mr. Howard: We can do that at a later time. Are there any other questions of the applicant?

Ms. Kirkman: Yes.

Mr. Howard: Ms. Kirkman?

Ms. Kirkman: So, how much is the height of this hotel going to be increased with the increased FAR?

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Ms. Karnes: Now that's a question I'm going to have to ask the engineer to compare before and after. How much did we go up, any or...?

(Engineer: Inaudible.)

Mr. Howard: The staff report indicated there would be a zero impact on the height based on the change of the FAR.

Ms. Karnes: Right, and it's 52 feet.

Ms. Kirkman: So there's no increase in the height; that means it's going out instead of up.

Ms. Karnes: But it's being pulled back.

Ms. Kirkman: I understand it's being pulled back and we've established that you can pull it back without the FAR increase.

Ms. Karnes: Okay.

Ms. Kirkman: But I just want to clarify that because there is no increase in the height the additional square footage will come from going out further and having a larger footprint.

Ms. Karnes: Okay.

Ms. Kirkman: Is that correct?

Mr. Rhodes: It said no FAR over what could occur by-right.

Ms. Karnes: I think we're saying the same thing. Basically, we're saying we're not extending further into the RPA. Otherwise, I think you are absolutely correct when you say that the building is going out. It's just not going out further into the RPA.

Ms. Kirkman: Thank you.

Ms. Karnes: Okay.

Mr. Howard: Ms. Karnes, in order to meet the request of the Stafford County Fire Marshall, prior to requesting the change to .46 FAR from the .40, what modifications, if any, had to take place in terms of the building? So what... is this a result of those changes or this has nothing to do with the changes that the Fire Marshall requested?

Ms. Karnes: It has a lot to do with the Fire Marshall changes. It was originally proposed at .43 so we were still coming in and requesting a change.

Mr. Howard: Okay.

Ms. Karnes: The focus of the Fire Marshall was on the sides of the building. And so the sides were somewhat reconfigured and kind of honed if you will. There were other changes in the design.

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Mr. Howard: To give them access to the sides of the building, without (inaudible)?

Ms. Karnes: Yes.

Mr. Howard: Okay.

Ms. Karnes: Including the elimination of an outside patio on the rear side.

Mr. Howard: Okay.

Ms. Kirkman: But, Ms. Karnes, could you please explain how the change was made in response to the Fire Chief necessitated a further increase in the FAR from .43 to .46? Because I'm not understanding why you couldn't meet the requirements or the suggestions of the Fire Chief without that additional increase.

Ms. Karnes: All I can tell you is that our engineer was able to refine the application so that he streamlined access to the sides and achieved that with a .46 FAR.

Ms. Kirkman: Is your engineer here tonight?

Ms. Karnes: He is not here.

Mr. Howard: Thank you. Any other questions for the applicant? Hearing none, I will now open up the public hearing portion where the public gets to step forward and share their comments on the application that's before us. And again, we're talking about the CUP1000147 which is the Conditional Use Permit for the Aquia Hilton Extended Stay Hotel. Anyone wishing to address the Planning Commission on this item may do so by stepping forward. We just ask that you state your name and address.

Mr. Lovell: Good evening. My name's Everett Lovell, I own the adjoining properties to this parcel, including the Aquia Pines Camp Resort. I'm recommending that you decline to increase the floor area ratio primarily because I want the parking lot limited. I'm very concerned about the size of the parking lot and the heat generated off the like of that being very close to my campground. Thank you.

Mr. Howard: Thank you. Anyone else wishing to address the Planning Commission may step forward, again on CUP, the Conditional Use Permit for the Aquia Hilton Extended Stay Hotel.

Mr. Waldowski: Paul Waldowski. A sense of home off of Route 1. Boy that sounds real homely to me. You go from 90 rooms to 100 rooms which is just like the owner next to it said, that increases the parking which is definitely going to put a public safety entity on this which the Fire Marshall has already addressed. Now, you know we're not in the business for land use to make things economically benefit and even if you could statistically could keep those hundred rooms full 365 days a year which is impossible in the hotel business, you're not going to go anywhere. You remember staff also pointed out that the areas that were selected in Virginia are airports and Potomac Mills. I guess the Aquia Town Center is close enough to, uh, where the new hotel is but that's still under construction. So, I would say if you're going to make something homely then maybe you need to go build a hotel out by the Stafford Airport. Now I am also confused about how you can increase the FAR and imply that it reduces the impact of the RPA. Mathematically I just can't picture that in my mind. And normally,

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when these hotels are brought, I saw one of the greatest presentations; remember, the precedent was set where we showed even the visual aspects and I really believe that this applicant needs to use that precedent to show this Planning Commission that we are definitely using the land use in what it was intended to be used for in conjunction with the Comprehensive Plan. One other mathematical fact that I wrote down here that's interesting to me is when you increase that far from .40 to .46, the square footage increased from 52,571 to 60,000. Now we also need to know about those 90 rooms; how much square footage was fitting in there initially. And also, it would be nice to know from Hilton, you know, most times when any kind of construction is on, they have a model of what does a Home to Suite look like and then based off the requirements an applicant can usually customize it accordingly. Thank you.

Mr. Howard: Thank you. Anyone else wishing to address the Planning Commission on the Conditional Use Permit for the Aquia Hilton Extended Stay Hotel may do so now by stepping forward to the podium. Seeing no one else advancing towards the podium, I will now close the public hearing portion and bring it back to the Planning Commission for additional discussion. Mr. Mitchell?

Mr. Mitchell: Mr. Chairman, I make a motion for the approval of the CUP1000147, Conditional Use Permit, Aquia Hilton Extended Stay Hotel, and I would like to make a quick comment if I could. Or should I wait till after the second?

Mr. Howard: I would wait for the second.

Mr. Mitchell: Okay.

Mr. Rhodes: Second for discussion.

Mr. Howard: Second by Mr. Rhodes for discussion. Mr. Mitchell?

Mr. Mitchell: Mr. Chairman, I honestly see that the hotels that are planned for the Stafford area as a necessity. You've got the Marine Corps primarily, you've got the different contractors that will be working with the Marine Corps that will be utilizing these facilities especially due to the proximity of the hotel to the base. I think the transit occupancy tax will put additional money into Stafford. I think that, you know, these hotels do not bring children, they do not put people in our school; these are people that are here buying goods, they'll be buying gasoline, they'll be buying food, they'll be buying clothes. This is a revenue generator in essence, from my perspective and you may agree or disagree, but these people are not moving here with three children that's going to add additional people to the school system. These are extended stay and they are the type of relaxing places where a number of entities, contractors, that will need this type of facility.

Mr. Howard: Thank you. Mr. Rhodes?

Mr. Rhodes: No.

Mr. Howard: No comment? I'll go to my right; Mr. Hirons?

Mr. Hirons: I'll support the motion; however, my concern was or is how it was presented to us, this little confusing discussion about some sort of environmental improvement because of the increased FAR. Really, the reason behind this application is purely economic. It's going to make the applicant

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more money in the end which, in turn, is also, as Mr. Mitchell pointed out, more tax revenue for the County is going to benefit from this. So I don't have a particular issue with the FAR increase, I just wish the application had been a little more honest and up front. And I would have liked to have seen more of the analysis be on the financial benefit to the County rather than this confusion of it's going to not impact the RPA as much and it's somehow going to improve the environment.

Mr. Howard: Thank you. Ms. Kirkman?

Ms. Kirkman: Mr. Chair, I'm going to oppose the motion. I think this type of building within the 50 foot buffer of the creek is exactly why we're going to be running into problems in Stafford County with the Clean Water Act and enforcement of that at a federal level. There may be hotels needed in the County but there are certainly far more appropriate sites than this one.

Mr. Howard: Thank you. I will be supporting the motion as well. We're all always concerned about anytime you're going to have encroachment into a Resource Protection Area and there's still more work to be done as the applicant pointed out in terms of requirements that the applicant will have to comply with in order to mitigate as much as possible those impacts that may or may not occur based on moving the building. In terms of the CUP before us, it's specifically here really to increase the FAR to .46 and I support that. I think 10 additional rooms, as they indicated, I would have to think is somewhere around \$300,000 in revenue. I don't know what the tax rate is on that but it's never a bad thing to have hotels in Stafford County that are utilized, occupied and rooms are turned at a rate that we currently see. And we benefit a great deal from having Quantico as close as we do, as well as being a great stopover on I-95 as people travel on the east coast here, north and south. So I will be supporting the motion. I'm going to call for the vote. All those in favor of Mr. Mitchell's motion which is to recommend approval for the Conditional Use Permit for the Aquia Hilton Extended Stay Hotel signify by saying aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay?

Ms. Kirkman: Nay.

Mr. Howard: The motion carries... I have to count... 4 to 1. Thank you. We're now on item 6 which is an amendment to the Zoning Ordinance. Mr. Harvey? It looks like we'll be hearing from Ms. Hudson?

6. Amendment to Zoning Ordinance - The Board of Supervisors referred proposed Ordinance O11-15 to the Planning Commission. Proposed Ordinance O11-15 would amend and reordain Stafford County Code, Section 28-25, "Definitions of Specific Terms;" Section 28-35, Table 3.1, "Table of Uses and Standards;" and Section 28-39, "Special Regulations" to provide for temporary family health care structures in conformance with the Virginia Code. Temporary family health care structure means a transportable residential structure providing an environment facilitating a caregiver's provision of care for one mentally or physically impaired

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person and is limited to one occupant who is the mentally or physically impaired person. These structures would be permitted by-right in A-1 Agricultural, A-2 Rural Residential, R-1 Suburban Residential, R-2 Urban Residential, R-3 Urban Residential-High Density, PD-1 Planned Development 1, PD-2 Planned Development 2, P-TND Planned-Traditional Neighborhood Development, and RBC, Recreational Business Campus Zonings Districts. Proposed Ordinance O11-15 would define caregiver and mentally or physically impaired person, and establish requirements for these structures. **(Time Limit: July 4, 2011)**

Mr. Harvey: Yes sir.

Mr. Howard: Okay.

Ms. Hudson: Good evening Mr. Chair, members of the Commission. Computer please? This is in regard to the temporary family health care structures that has been before you several times. The General Assembly amended the Virginia Code during the 2010 session by adding the Section 15.2-2292.1 requiring the localities to provide for temporary family health care structures. The structures are for use by a caregiver in providing the care for mentally or physically impaired person and on property owned or occupied by the caregiver as his residence as a permitted accessory by-right use in any single-family residential zoning district on lots zoned for single-family detached dwellings. Only one family health structure shall be allowed on or lot or parcel of land and limited to one occupant who is the mentally or physically impaired person. I have given you a couple of sample features of a temporary health care structure. This is one here with different potential features that might be available. The other is an example looking on the outside of a temporary health care structure. I'll be glad to answer any questions. The proposed Ordinance, O11-15, staff does recommend approval of this ordinance and it would make our Zoning Ordinance compliant with the State Code.

Mr. Howard: Thank you Ms. Hudson. I'll now bring it back to the Planning Commission for questions for Ms. Hudson or any other staff members. I'll start with Mr. Rhodes this time.

Mr. Rhodes: None.

Mr. Howard: No questions from Mr. Rhodes. Mr. Mitchell?

Mr. Mitchell: No sir.

Mr. Howard: Ms. Kirkman?

Ms. Kirkman: Yes. Ms. Hudson, I just want to make sure I understand the reason that this is before us. My understanding of sort of the history of this is that the only reason why we're considering this is because there was a change in the state statute; is that correct?

Ms. Hudson: Yes.

Ms. Kirkman: And if we... so by the state statute which is overriding any local ordinances, these can be put in Stafford County now, as of today. Is that correct?

Ms. Hudson: Can they be...? I'm going to ask Mr. Smith.

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Mr. Howard: You'll defer to Mr. Smith.

Ms. Hudson: I'm going to refer to Mr. Smith on this.

Mr. Smith: Ms. Kirkman, you're correct. The state statute mandates that localities' Zoning Ordinances consider these as accessory structures in any zoning district that permits single-family detached dwelling units.

Ms. Kirkman: And right now, without this legislation, we don't have any ability to regulate at the County level how these go in, how their like setbacks and size and those things, is that correct?

Ms. Hudson: I would say not. I would want to see those regulations in the Zoning Ordinance so we have them to enforce.

Mr. Howard: Well, is the question by having this absent from our ordinance, is that a hindrance to the County's ability to place some regulations on these pods if we leave it at the state level?

Mr. Smith: Mr. Chairman, Ms. Kirkman, there are some provisions included in the state statute that do mandate that these structures comply with certain requirements of the locality, such as every structure shall comply with all setback requirements that apply to the primary structure. However, there are some aspects of the statute that are permissive that are left to the discretion of the locality that the County could not exercise unless it actually affirmatively adopted a Zoning Ordinance and addressed those issues.

Ms. Kirkman: Thank you.

Mr. Howard: And one of the changes that the Planning Commission agreed to make was in fact giving the County or requiring the County to have some ability to at least check on the medical certification. Is that correct?

Ms. Hudson: Yes, and I did put the change in.

Mr. Howard: Can you just cite where that change is so we have a level of comfort on that?

Ms. Hudson: Yes, it's in the Ordinance page 2.

Mr. Howard: Page 2 of the Ordinance?

Ms. Hudson: Yes, mentally or physically impaired person as certified in a writing provided initially and on an annual basis by a physician licensed by the Commonwealth.

Mr. Howard: Okay, good. So that was a change.

Ms. Hudson: And then I had one other change and that was the table of uses and standards, table 3.1, I needed to add the RBC, Recreational Business Campus, uses permitted by-right, temporary family health care structure.

Mr. Howard: Okay. Thank you. Any other questions for staff?

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Mr. Hirons: Yes.

Mr. Howard: Mr. Hirons?

Mr. Hirons: If someone wanted to build one of these on their property today in Stafford County, what would they have to do in accord to be compliant with the state code as well with any building codes here in the County? For example, could someone put a shed on their property and just attach to plumbing and put a toilet in their shed and attach it to their sewer?

Ms. Hudson: If they met building code, perhaps.

Mr. Hirons: And this type of structure would have to go through that same...?

Ms. Hudson: This type of structure can only be 300 square feet. They'd have to meet the requirements that the state code has given us. Now the type of structure, if it were to be a shed, would have to meet building code that someone could reside in that structure.

Mr. Hirons: Okay, and if someone wanted to put one of these structures in, what would they have to do?

Ms. Hudson: Well, number one, they'd have to get a building permit... the shed issue?

Mr. Hirons: No, the granny pod.

Ms. Hudson: The one like a med cottage?

Mr. Hirons: Yes.

Ms. Hudson: They would need to come to the County to get the proper permit for a building permit.

Mr. Hirons: So we do have some sense of review within the County?

Ms. Hudson: Absolutely. And I just wanted to tell you, too, I mean we're going to be working on an application so we have an application for this type of (inaudible).

Mr. Hirons: And has anyone come to the Planning office or building code office to ask for one of these to be built?

Ms. Hudson: Not to my knowledge.

Mr. Hirons: And still, as far as you know, I forget... when we had our earlier discussion I think you found another company that built these types of things besides MedCottage in Roanoke or Salem?

Ms. Hudson: Yes, I can't remember what the name of the company was though. But we found two or three.

Mr. Hirons: Okay. Have we found out if MedCottage has actually sold any of these and installed them?

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Ms. Hudson: I have not. I have no knowledge that they have.

Mr. Hiron: Alright, thanks.

Ms. Hudson: You're welcome.

Mr. Howard: Ms. Hudson, there are probably several places in the county on someone's property where someone has a boat, not a boat, but a pool house and there might be a commode in there and also a shower; would that be fair to say? So there's mechanisms today in place that if you wanted to build a facility on your property and you were going to use it for something other than this med-pod or granny pod, you can do that today by going through the building department and meeting their requirements...

Ms. Hudson: Yes, as an accessory...

Mr. Howard: ... and have it inspected and then have it certified for occupancy, right, the C.O.? So this really would be the same process; the difference here by adopting this is that the County now has an opportunity to have maybe tighter control on who is allowed to do this and really validate the reasons or rationale behind the application or the applicant. Is that correct?

Ms. Hudson: Yes.

Mr. Howard: If we adopt this.

Ms. Hudson: Yes.

Mr. Howard: Okay. I just want to make sure that's clear because there was a lot of questions. Alright, we'll now open up the part of the public hearing where the public can now address us on item number 6 which is the amendment to the Zoning Ordinance which is O11-15 which would amend and reordain the Stafford County Code Section 28-25, Sections 28-35, 3.1 and 28-39. Anyone wishing to address the Planning Commission may do so by stepping forward to the podium now.

Mr. Waldowski: Paul Waldowski. I have first-hand experience with this thing called a variance. So, that's a setback where you build one of these 300 foot so-called dwellings and you have to go through the Board of Zoning Appeals which is through the Justice Department. So, we already have a mechanism in place and I like the Justice Department in this because when you're notified as an adjoining or an adjacent owner because someone will do this behind your back... trust me, been there, done that and thank goodness that we have the laws in place that we do get notified... the one recourse you do have is that you can file a petition of appeal and you get more than your three minutes to defend your property, because that's all you get with a BZA is because the applicant gets all the rights. And then when they build these 300 foot aspects, yes, they get their building permit and they whine about paying their variance. But the most important thing that happens is when you cover up 300 square foot on a lot that a builder wouldn't have built something on, now you have like this spring all this water that would normally be absorbed in another aspect. Another thing that happens with these so-called health care structures is they wind up being on 4x4's. I've seen Miss Utility not called and those type aspects. And your granny sheds, just so you know any shed in this County has a five foot setback and I can ride through this County in many places and show that the five foot setback is not taken into account. So, I don't understand why you have a state code; we have an existing

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infrastructure and here we are going through a paper trail to put something in place where you really don't have the Justice Department as a check and balance to take care of it. Thank you.

Mr. Howard: Thank you. Anyone else wishing to address the Planning Commission may do so now by stepping forward to the podium. Seeing no one else advancing toward the podium, I will now close the public hearing portion and bring it back to the Planning Commission for discussion.

Mr. Mitchell: Mr. Chairman?

Mr. Howard: Mr. Mitchell?

Mr. Mitchell: I will make a motion for approval of the amendment to the Zoning Ordinance in reference to I believe it's O11-15.

Mr. Howard: Correct. Is there a second?

Mr. Rhodes: Second.

Mr. Howard: Second by Mr. Rhodes; discussion? Mr. Mitchell?

Mr. Mitchell: Mr. Chairman, I welcome the ability of the County to be able to have a better handle on what is built. Basically, and I'm not trying to simplify it down to pure simplicity, but what we're doing tonight is codifying the state law. And it's like when they change the speed limits from 75 to 65 and all the counties, all the cities, have to do that, and it's a codifying of the law, it is not our wish in particular. When they change the DUI limits from .6 to .5, again it's a codification. So, but I do welcome the ability for us to have some say in how these things are built, where they're built, and if they're no longer needed then we'll also have the ability to take action there.

Mr. Howard: Thank you. Mr. Rhodes?

Mr. Rhodes: Nothing further Mr. Chairman.

Mr. Howard: Mr. Hirons?

Mr. Hirons: I'll just say I don't think it's any surprise, I'm going to vote against this motion out of principal. I don't think us taking this, adopting this, helps us greatly. Helps us a little, I'll concede that but it doesn't greatly. And the bigger concern is that the state code actually exists for these and appear to be for one individual and one corporation.

Mr. Howard: Ms. Kirkman?

Ms. Kirkman: No comment.

Mr. Howard: No comment? I'll be supporting the amendment. I believe strongly it gives Stafford County an additional look at something that is currently a state law, so we'd have to comply anyway. And to add it into the Stafford County Zoning Ordinance gives the County just a little bit more flexibility and muscle perhaps than we would have had otherwise. And I think, in this case, that's a

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positive. I'll call for the vote. All those in favor of Mr. Mitchell's motion which is to recommend approval for the proposed Ordinance O11-15 signify by saying aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Howard: Aye. Opposed nay?

Mr. Hiron: Nay.

Mr. Howard: The motion carries 4 to 1. Thank you. Item number 7 was cancelled and now... I have to sort of check myself... we're still really on item 1 officially. So, I don't think we can jump to the other item; does everybody agree with that? We're still really on item 1 after the public presentations. We moved the other item to item 7 but not under public hearings, because the public hearing was cancelled.

Ms. Kirkman: But I believe you also said we were going to hear from the Planning Director on item 7.

Mr. Howard: Yes, you're right; thank you for reminding me. Mr. Harvey?

7. Amendment to Zoning Ordinance - The Board of Supervisors referred proposed Ordinance O11-26 to the Planning Commission. Proposed Ordinance O11-26 would amend and reordain Staffer County Code, Section 28-35, "Definition of Specific Terms" and Section 28-35, "Wetland Use, Uses and Standards," to provide a definition of a Wetland Mitigation Bank and establish a Wetland Mitigation Bank as a use within the A-1, Agricultural and A-2, Rural Residential Zoning Districts. (Time Limit: 4:00:11)

Mr. Harvey: Yes Mr. Chairman, we have Mike Lott from the staff that can give you an update. There are a few changes since the last time this was discussed at the Planning Commission.

Mr. Lott: Good evening Mr. Chair, members of the Planning Commission; I thought I would answer a few questions from the last meeting as well, if I may.

Mr. Howard: Yeah, that'd be great.

Mr. Lott: The Planning Commission, at its May 18th meeting, had requested additional information on the goal of no net loss of wetlands and the emphasis on wetland creation and restoration as opposed to preservation during the wetland permitting process. The federal goal of no net loss of wetlands was established under the administration of President Bush in January of 1989 and this no net loss policy incorporated in the federal guidelines for wetland permitting impacts and continues today. This goal applied both to the net wetlands acreage in the country as well as to the function and value of those wetlands. This federal policy has also been incorporated into the Code of Virginia, which states that the compensation for wetland impacts shall be sufficient to achieve no net loss of existing wetland acreage and functions and may be met through the wetland creation or restoration, purchase or use of mitigation bank credits or contribution to an approved fund dedicated to achieving no net loss of

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wetland acreage and functions. Federal guidance does, in exceptional circumstances, allow for preservation as the sole basis for generating credits in a wetland mitigation bank when the physical or biological functions of those wetlands are important to the region where the aquatic resource is located, and the resources are under demonstrable threat of loss or degradation due to human activities that might not otherwise be expected to be restricted. At its May 18, 2011 meeting, the Planning Commission had recommended that the Board rescind Resolution R11-117 that referred the proposed Zoning Ordinance O11-26 relating to the Wetland Mitigation Bank to the Planning Commission. The Board voted on June 7, 2011 to have the Planning Commission cancel tonight's public hearing while giving the Planning Commission additional 90 days to take action and make its recommendation. In addition, the Board has asked staff to prepare a presentation for their June 21st meeting, sort of getting in more detail and explaining the Mitigation Bank process to the Board. I can answer any questions.

Mr. Howard: Well, we would like to see a copy of that too, if you could...

Mr. Lott: Yeah, I figured we'd present that to you as well if you like.

Mr. Howard: Perfect.

Mr. Lott: I also state that if you... if it's of interest to you, I could have the Mitigation Banking company that's interested in the County come and give you a presentation as well, if that's something that's of interest for your consideration.

Mr. Howard: Does anyone feel that would be of interest? I'm not sure that we... I mean, to hear from someone who's going to benefit from that, of course they're going to be pro-Wetlands Bank.

Mr. Lott: Sure.

Ms. Kirkman: I just want a...

Mr. Howard: Ms. Kirkman?

Ms. Kirkman: ... verification from the attorney because staff referenced the Board giving the Planning Commission an additional 90 days but I don't see reference in that to the Resolution. The Resolution appears to only rescind the legislation.

Mr. Harvey: Yes, Mr. Chairman and Ms. Kirkman, the Board did not adopt the Resolution to rescind but by their verbal motion asked that the Commission cancel their public hearing and add an additional 90 days for review.

Mr. Howard: Ninety days starting from when?

Mr. Harvey: I'm assuming from June 7th, when their Board's last meeting was held.

Mr. Howard: Okay.

Ms. Kirkman: So do we have a Resolution to that effect?

Mr. Harvey: Not to my knowledge.

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Mr. Howard: But you said a verbal motion was made and voted on?

Mr. Harvey: Yes.

Mr. Howard: Okay.

Ms. Kirkman: Thank you.

Mr. Howard: Alright, so, before we... we probably ought to vote to have this moved to unfinished business on our agenda. Would anyone like to make that motion... of the four of us sitting here?

Ms. Kirkman: Oh, we lost one.

Mr. Howard: So, anyone want to move to move the Wetlands Mitigation Bank to unfinished business on our agenda for the next meeting?

Mr. Mitchell: I make a motion to move it...

Mr. Rhodes: And second.

Mr. Mitchell: ... to the unfinished business.

Mr. Howard: Thank you. Seconded by Mr. Rhodes; any discussion? I would like to, if possible, get a copy added to the package of what you're going to send to the Board of Supervisors also for our meeting so we have that as a pre-read. And then we can take it from there in terms on what we want to do at our work session. All those in favor of the motion signify by saying aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Howard: Aye. Opposed nay? The motion carries 4-0.

Mr. Rhodes: Is that 13 July?

Mr. Howard: Yes, July 13th.

Mr. Rhodes: Okay.

Mr. Howard: Okay, so we now are back on item 1. I appreciate everyone sticking around. And the applicant was up and Dr. Bellas I believe was...

1. RC2900108; Reclassification - Clift Farm Quarter - Continued

Mr. Leming: If Dr. Bellas could resume, he has a few more things to add and (inaudible).

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Mr. Howard: Sure, understood. And I think the guy's an intelligent guy but we get the whole credentials piece. So we'd like to hear more about the (inaudible).

Mr. Leming: He's not going to talk anymore about his credentials; would you like to hear about mine?

Mr. Howard: I saw yours on Facebook.

Dr. Bellas: Thank you. I wasn't trying to brag about my credentials, just trying to show you my background. One thing I forgot to say during my presentation and I offer this as a proposal, with your permission, is at the end of the day we want the Commission to be happy with the analysis. So, what I'd like to propose is that I sit down with Dr. Fuller and compare the similarities and dissimilarities between the findings in my study with the findings of his study. There are some similarities between both and there's some dissimilarities. A lot of times it has to do with assumptions, it has to do with data, and sit down and prepare a written memo that's reviewed by both Dr. Fuller and myself that outlines the discrepancies and explains to the Commission exactly why the findings of my report is different than his. And hopefully that will help explain why there's so much concern. At the end of the day, we want the Board... the Commission to be happy. And that was my... what I wanted to say.

Mr. Howard: Yeah, that's completely within your purview to do that. I mean, if your client is going to pay you to do that, that's wonderful. And you can share it with Mr. Mayausky; that might not be a bad option to take as well.

Dr. Bellas: Okay.

Mr. Leming: We thought that the best way to resolve the differences, since it's Dr. Fullers report and Dr. Bellas' report, is to have them compare their notes and that would be something that they would do in the routine course of business on any number of items anyway. Were there any questions for... it's been a while since you heard what he actually said... but were there any questions with regard to what Dr. Bellas has indicated?

Mr. Howard: Let's find out; I'll bring it back to the Planning Commission. Were there any questions of the applicant's fiscal analysis and some of the comments? Mr. Hirons?

Mr. Hirons: Not of the fiscal analysis, no.

Mr. Howard: But questions of Dr. Bellas or the applicant?

Mr. Hirons: The applicant.

Mr. Howard: Okay. Ms. Kirkman, any questions of Dr. Bellas?

Ms. Kirkman: I have some follow-up questions for Commissioner Mayausky based on what Dr. Bellas had said.

Mr. Howard: Right. Mr. Mitchell?

Mr. Mitchell: None sir.

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Mr. Howard: Okay, thank you very much; appreciate it. I won't take from the applicant's time so if the applicant has additional... we're going to bring Mr. Mayausky back up as well... but...

Mr. Leming: And again, whatever your pleasure is, we have other things to talk about to come full circle though on the two parts of the matters, the economic matters we've been discussing tonight. Dr. Bellas has addressed the difference in the breakeven points that were presented to you in Scott's memo. With regard to the values and the issue of whether or not of what this land is worth, if the Commission wants further investigation on that, there are any number of methodologies and obtaining an appraisal is not a big issue for us. The County may want to weigh in; we may need to mutually agree on an appraiser. Maybe the County has an appraiser, we have an appraiser and you can compare the results. As I indicated before, appraisers can reach vastly different opinions on value of property. But however the Commission would like us to proceed to resolve that issue, we're happy to go that route. But I think it makes some sense to try to obtain some resolution here. If the value needs to drop, Dr. Bellas makes the adjustment in his analysis, it still doesn't address the primary issue and that is what is the standard here. This is a UDA, it has the narrative that goes with it... you know, how are we supposed to address these issues. And there are the fundamental problems with the current cash proffer methodology and guidelines that I think you all need to investigate yourselves.

Mr. Howard: And we understood that. I mean, I'm just totally thinking out loud, I have no idea how the other Commissioners feel. But if the valuation... you mentioned 50%... if the valuation were to drop, have you or your applicant thought through that and then, because it's pretty clear in the Comprehensive Plan that the goal is to mitigate, and you even said this, mitigate the impact on all county services basically. The service that's probably the most impacted for us is the schools in this scenario and if there's some truth in the number of 300 to 330, or whatever that number was, of student generation, have you thought through okay, well maybe that's a piece of the cash proffer that we can, you know, talk about and still we cut the value in half, we talk about the school proffer and maybe that dollar amount all of a sudden is the same in terms of what your initial value was. And again, I'm just totally talking out loud here, my own thought.

Mr. Leming: We're happy to try to wade through this any way you want. As I indicated at the last meeting, one of the things we could've done which seemed to me to be putting form over substance is to say okay, here's a school site. We designate this acreage for a school site. That's what the school support staff requested.

Mr. Howard: Right.

Mr. Leming: A specific dedicated school site. If we did that then there's a basis for an offset there. And whether that changes something in one of the other categories becomes the issue, but I think it would probably be more than sufficient to cover that portion of the proffer. But you may end up with a school site anyway. The really remarkable thing about this application that you have never seen before is that basically we've got a 460-some acre tract... correct Debrarae?

Ms. Karnes: Yes.

Mr. Leming: Two hundred sixty-two acres is coming to the County for whatever you want. We're taking this hundred and fifty-eight-some parcel and making that the residential and commercial portion of the development. All the rest of it comes to the County and what is the value of that when the County is out looking for land right now, trying to buy land with perspective bond money for athletic

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fields? You know, there's room for another 15 fields here in addition to the ones that we're proposing. There are a lot of values to be weighed and considered here. Our approach was that's what the Comp Plan narrative says they want done, that's what they'll do. How we balance that against the other cash proffer categories, you know, we don't have those answers any more than you all do. Any direction you want to put us in... it seems to me that it does make sense to try to come to some resolution though on what the value of this land is because however we look at this, that's the most valuable thing the County's getting. The County's getting a massive amount of land that basically you can do with anything you want to. Now we're proposing that a certain port of it be built out as an athletic complex because that's what the Comp Plan narrative calls for. But how we ultimately, how we value that land, that has a lot to do with the way the whole application I think is assessed and how we deal with this whole proffer issue. So, you know, I come back to that. Maybe it makes some sense to try to get some resolution on what it's worth. I don't think that even devaluing the land by half is ultimately going to affect greatly the analysis that we have put together. You may see that we've included... we have \$9 million worth of sewer improvements as part of this project that the Utilities Department wants to see made as part of the CIP about, we estimate, pursuant to the issue that Scott raised regarding the amount that's necessary for our project versus what's beyond our project, we estimate that about \$3 million of that is necessary to serve this project. But we're doing the rest of this infrastructure because it's the next step in the line of utilities improvements that's necessary. You know, utilities isn't even part of your cash proffer guidelines, and yet here's a major improvement that's in your CIP that we're going to be the ones building. So, you know, it's a new animal; nothing like this has ever been done before. But my suggestion is still we try to get to the bottom as far as what this property can be reasonably valued for because I think that will... then we'll have a better sense of where (inaudible).

Mr. Howard: I think that's a fair comment. I know Mr. Hirons had some questions for the applicant and I know Ms. Kirkman has questions for Mr. Mayausky. Mr. Hirons?

Mr. Hirons: I apologize; hopefully these questions are somewhat still relevant. I scribbled them out and I can't even read my writing on one of them.

Mr. Leming: I do that.

Mr. Hirons: I hope Mr. Leming, you understand we do want to be careful about this because this is the first one as you mentioned. It is a new animal and we are going to get a bunch more of these animals coming down our trail here pretty soon. So we don't want to screw the first one up because then that is really going to screw the last one up. One of the things you continue to say is, and rely on is the Comp Plan calls out for certain amenities and certain things that the developers have to provide within these UDAs. But does it say anywhere that if you provide these your cash proffers will be waived?

Mr. Leming: No. It is completely unaddressed.

Mr. Hirons: Right.

Mr. Leming: You know the dilemma that we have is what I indicated from the first. There is no way possible that any of your UDA landowners can do both. You know the cost of the infrastructure that is called out in the comp plan narrative is so significant that there is simply no way that anyone could come here and do both. I mean you know doing this as long as I have it is my absolute prediction you are never going to see any application come in here offering to pay your current cash proffer guidelines period. What you are suggesting goes even a step beyond that. You get out from under the cash

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proffer guidelines or do you still have to pay them and do the infrastructure improvements called out in the Comp Plan narrative. You know if the county realistic about wanting to put a UDA on the ground, it is not going to happen.

Mr. Hirons: Right.

Mr. Leming: It is simply not a way that can be done from the standpoint of the landowner or the developer. So that is the dilemma, you are right that it doesn't say what happens with the cash proffer guidelines and I don't mean to beat a dead horse but from my standpoint you all have a problem with your cash proffer guidelines. No one is going to pay them, there is a flaw in the methodology, you are doing what I think goes beyond what the law permits you to do. That is asking for the developer of future property to pay for current infrastructure needs that are already here and necessary today. And what they are supposed to be covering is the future infrastructure that is required, that is generated by their development. So it is a complex issue there is no question about it and we are happy to hear what you have to say. We would... you know if there are others that are going to weigh in on this, in the interest of trying to get to some of the answers, we hope that we will be included when others are brought in. I think that a lot of the questions, if we had had... if there had been a conversation between the Commissioner and between Dr. Bellas and maybe even Dr. Fuller a lot of these issues would not even be in writing before you at this point. But we are trying to constructively to work through this and we are open to ideas. We have put down what we know we can do, that is important too. If you over proffer the thing you are not going... there is no chance for the application or the development anyway. That's already happened on this property. I'm sorry I did go on at some length didn't I? I did not mean to.

Mr. Hirons: That's okay, lawyers have that tendency.

Mr. Leming: Sorry.

Mr. Hirons: I guess the other question hopefully turns into a question, not a straight comment. But when you continue to also say is we are giving the county 262 acres of land, I think that is the number.

Mr. Leming: Yes.

Mr. Hirons: But I'm not so sure that the County has asked for 262 acres. The County has asked for land for the 15 field complex, the commuter lot, the dog shelter or animal shelter and then possibly a 20 acre school site. That's not going to add up to 262 acres. I think you guys have even admittedly and I'm not going to find it now, but there was residual land regardless of that the county is just going to inherit. So...

Mr. Leming: Well, I mean there are wetlands on all of the land. There are more wetlands on the part that is being developed than on the part that we are conveying to the County. But I think that, where did the idea that we convey everything beyond the point of the development actually came from a pre-filing discussions with Supervisors.

Mr. Hirons: Okay, that was actually going to be my question. If you had anyone ask you for...

Mr. Leming: That was who asked for...

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Mr. Hirons: ... X number of acres or something along those lines.

Mr. Leming: Sure. Why do you need to have houses there, we want that. And you know initially when we started this process I showed you the iterations because I wanted you to see the history of this. You know there have been prior iterations of even this particular application. And we start... when we switched over from the PD, which was already in the pipeline to the UDA and the PTND and the much smaller footprint, trying to comply with the statutory requirements for density, which was quite a challenge. When we did that there were periodic meetings and we had, you may recall, we had development on the other side of the power lines off to the south at one point. All that disappeared and you know the request was bring that land, everything beyond this points comes to the county. So that is the way we were guided and that is why...

Mr. Hirons: Was that before... were those discussions before the adoption of even back in December, adoption of the comp plan at that point with the UDAs?

Mr. Leming: No, they were after we knew that things were in place and needed some guidance on how to put some of these things together as we were amending the application.

Mr. Hirons: Alright, great. Thanks.

Mr. Howard: Ms. Kirkman?

Ms. Kirkman: Yes, during your presentation you stated there's a problem with the proffer methodology and I think you used the 50% number... that 50% of the current proffers are due to existing need, not caused...

Mr. Leming: I did not give you a percentage.

Ms. Kirkman: Okay.

Mr. Leming: I think that 50% came from something...

Mr. Howard: There was a discussion about the valuation.

Mr. Leming: I think that came from dropping the value from 45 to half of that, I think.

Mr. Kirkman: Okay.

Mr. Leming: I don't know how it breaks down. I don't know how much is allocated between the existing need for infrastructure and the projected future need for infrastructure. I just know that they are all in there together. I don't think the methodology actually breaks it out but they are all included.

Ms. Kirkman: So is your... assuming that we can figure out what's... you know assuming that you are correct in what you are stating about the methodology, if we can sort out what is due to current and what's due to future needs in the cash proffer guidelines is your client willing to pay some portion of a cash proffer?

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Mr. Leming: Well, if we have a legitimate standard that is established through the kind of analysis that you are talking about where the portion of the infrastructure, the capital improvements that the applicant is looked to pay as future. That is that created by the development, which I think is what the law goes to. If that in deed is the case then I think we do have a much more legitimate reasonable bar or standard in order to try to obtain. Right now we don't know where that is. Now having said that, that does give us a benchmark to shoot for; but having said that, the other in-kind proffers and the language of the Comp Plan narrative still have to be factored in. What do we do with those? The Comp Plan narrative says the developer shall do these things. So somehow that needs to be factored into the analysis. But I think that it would come closer to establishing an obtainable realistic standard than what you have presently.

Ms. Kirkman: So the Comp Plan, as we all know, is simply a guideline and assuming that there was some agreement that perhaps was more important for the welfare of the County is to make sure that those things that the County must by law pay for, such as schools, are addressed first through cash proffers and then the luxuries of soccer fields for which there are no state mandates are addressed secondly. At that point is your client willing to make cash proffers?

Mr. Leming: I think I just answered that.

Ms. Kirkman: No I heard you say...

Mr. Leming: And I will try again.

Ms. Kirkman: Yes, you are going to tell me again as you have repeatedly said is you can't do both. We understand you can't do both.

Mr. Leming: Right.

Ms. Kirkman: We also all know that the Comprehensive Plan is simply guidance.

Mr. Leming: Yes.

Ms. Kirkman: And that there is no obligation for the applicant to meet that guidance.

Mr. Leming: Well, if we got clear guidance from the Board of Supervisors that it was okay to go one or the other way as opposed to a Planning Commissioner, then yes, if we got direction from the Board that that was their objective rather than doing what they have included in their Comp Plan narrative. The Comp Plan narrative is the latest iteration of what the Board is looking for in the way of infrastructure for these UDAs. So I have got to rely on what they said last and that is the most current statement as to what the Board wants to accompany the UDA. So unless that policy were changed I would still feel on obligation to advise my client who addressed the policy that the Board has put out there.

Ms. Kirkman: So you're interpretation of the Comprehensive Plan is that the Board of Supervisors intent is that in-kind contributions rather than cash proffers will be made for these UDAs?

Mr. Leming: In-kind is one word that you could utilize. They have... I think that the intent is to institute perhaps that is too strong a word. To adopt... to encourage a new approach to the way

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infrastructure, the need for the way infrastructure that is created... the infrastructure that development creates the need for is handled. As I indicated and hopefully there is some recognition of this in the county, if you pay money to the county the county then has to go out and hire somebody to do the work. The money does not come in in any kind of regular flow with the cash proffer guidelines. If you... if on the other hand you say to the developer here are the things we want done, here is the infrastructure we need go and do it as part of this application, it seems to me having worked on these for a couple of decades that that actually produces a better result for the county in terms of getting something on the ground than what we are seeing right now. You know there was a time Ms. Kirkman when the proffer would say things like developer provides the school site, runs water and sewer to it, does X, Y and Z. That was done, we did not have any significant proffer guidelines in place at that time and those things occurred. They are actually there on the ground. You know, I don't see too much of that happening right now and I think that the problem is that the cash proffers have prohibited to the extent that it is the county's objective to keep residential development out the cash proffer system is a great way to do it and it has been very successful when you look at the zonings that have come into this county over the last fifteen years. I mean you have to go back a long time in history to find another residential zoning and I realize some of the issue is well it is all those old zonings that are still out there and vested. But if we are ever going to see any new kind of development there has to be some kind of different incentive and some kind of different approach. Because I don't... I mean I deal with these people every day they can't pay the cash proffer guidelines they are not going to pay them. You are not going to see an application like this.

Mr. Howard: Are there additional questions Ms. Kirkman?

Ms. Kirkman: Well it is just the... you know I am trying to understand the thinking here and you are saying this is a new approach where instead of paying cash proffers they...

Mr. Leming: Give you the product.

Ms. Kirkman: Give the product, but I am just having a hard time understanding how 600 housing units generates the need for 15 soccer fields.

Mr. Leming: Well, I did not put it in the Comp Plan. I am reading the Comp Plan that has been adopted, that is what it says.

Ms. Kirkman: Right.

Mr. Leming: And it says the developer shall be responsible for those things, so that is what we are responding to.

Mr. Howard: Okay, thank you. I think probably the most recent example, and we are going to bring Mr. Mayausky up, there is a lot of discussion and turmoil around the Mine Road... the expansion of Mine Road. I know the developer actually was on the hook to do that and ended up finishing that project and it is now a very nice four-lane road with a sidewalk and it now connects two communities that had no other way of connecting. So I ... but there is also the side that Ms. Kirkman is discussing which is hey there is a real fine... there is a real fiscal financial impact here to our county when you add 300 and something students to the schools and we don't have a way to...

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Mr. Leming: Fortunately the... I mean there is the operating cost but fortunately there is a lot of space in our schools right now.

Mr. Howard: Right.

Mr. Leming: Maybe there are more pressing needs. Maybe it's a thing that goes on and on and on. I understand you want to hear from Scott. Recall that we also have a new...

Mr. Howard: Proffer.

Mr. Leming: ... athletic field proffer that has just come in to you and a lot of other changes in the proffers since last time. What about the appraisal?

Mr. Howard: You are free, you and your client are free. If you want Dr. Bellas and Dr. Fuller to get together. I just suggest you tie Mr. Mayausky into whatever you do.

Mr. Leming: No I mean actually having an appraisal done on the value of this land.

Mr. Howard: Oh I am not sure that we want to request that at the Planning Commission level.

Mr. Leming: Okay. We are trying to get to some...

Mr. Howard: Right, I understand.

Mr. Leming: ... of what it is worth.

Mr. Howard: Mr. Mayausky would you mind, there are a few additional questions I believe that might be helpful to hear your answer. Ms. Kirkman.

Ms. Kirkman: Welcome back. In critiquing your memo Mr. Bellas made the statement that nowhere in Dr. Fullers report are these breakeven numbers. I am assuming you are not in the habit of just picking numbers out of the air, could you explain to us how you came up with these?

Mr. Mayausky: Yes, the breakeven number is actually in his report. What I did, which may have been confusing and admittedly I may not have explained well enough is in figure one on page one, I took Dr. Fuller's breakeven numbers and I converted them into assessed values. So that it would match the analysis and Dr. Bellas' report. That way we were comparing apples to apples. If you were to take the breakeven cost on figure one and you were to do the formula with the tax rate and all that kind of stuff it would equal back to Dr. Fuller's breakeven rates in his report.

Ms. Kirkman: Okay. And then the other statement that was made was the problem with your breakeven analysis is that you have not included all the other revenue that goes with these residents. What is the single largest source of revenue to the County?

Mr. Mayausky: It is by far the real estate tax. If... I would like to propose one thing though, it is difficult to jump into somebody else's report and it was not my intention to try to discredit Dr. Bellas' report. What I wanted to do was facilitate this discussion. I did not feel like this discussion had happened in the level that it is today, going all the way down to the in-kind proffers, so if after this

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meeting Dr. Bellas would still be willing to meet with me I would like to sit down and go through these items so that I certainly have a better understanding of what he is looking at and he has a better understanding of what my memo states. I think that will help all parties involved because certainly... these analysis are becoming commonplace and I think that is good, but I am certainly not going to stop asking questions when I see them and I hope they lead to more discussions like this. So the more we get involved and in the weeds of these things I think the better off we will be.

Ms. Kirkman: Alright, thank you.

Mr. Howard: Mr. Mayausky?

Mr. Mayausky: Yes.

Mr. Howard: Were you aware that Dr. Bellas' study did include additional revenue that is generated based on the population that would reside in the dwellings? He included retail tax collected on... and he used a calculation, he had a methodology that he explained to us a few weeks ago that he has used elsewhere in the Commonwealth of Virginia that they know how many trips to the store that the average person is going to take and so on and so forth. Were you aware that was part of that number or...

Mr. Mayausky: What I was primarily focused on was the single-family dwellings.

Mr. Howard: The real estate?

Mr. Mayausky: Yes. Now I would like to go back and take a look at that since we are the office that has all of those data sources for Stafford County. I would like to find out if he used specifically Stafford County data or if it was more of a regional data trend. Because we can help narrow that down to...

Mr. Howard: Sure.

Mr. Mayausky: ... actual revenue generated here.

Mr. Howard: My recall is it was more regional. But he can answer that question.

Mr. Mayausky: Okay.

Mr. Howard: But your... my question is your analysis did or did not have that? Factor that?

Mr. Mayausky: It did not include that.

Mr. Howard: So that was not factored in?

Mr. Mayausky: That was not factored in.

Mr. Howard: Okay. Thank you.

Mr. Mayausky: Can I answer the hotel tax question while I am here?

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Mr. Howard: That would be great. Yes

Mr. Mayausky: We have a five percent hotel tax.

Mr. Howard: Okay.

Mr. Mayausky: It generates about \$1.2 million. Three percent of it goes to tourism, two percent goes to transportation.

Mr. Howard: Okay. So how many rooms is that right now, do you know?

Mr. Mayausky: I don't know how many rooms that is. I can try and break that down on a per room basis.

Mr. Howard: It would be interesting. I mean, don't spend too much time on it. It was just more out of curiosity.

Mr. Mayausky: Yes that... believe it or not that is a difficult analysis because we only have the room numbers in real estate, we assess them based upon the income approach, which does not require you to know how many rooms there are.

Mr. Howard: Right, you may not know.

Mr. Mayausky: Just how much money they generate.

Mr. Howard: Right.

Ms. Kirkman: But they would have the room numbers over in permits.

Mr. Howard: Somebody would.

Ms. Kirkman: From the occupancy permit.

Mr. Mayausky: We can certainly check with them.

Mr. Hirons: Mr. Chairman.

Mr. Howard: Mr. Hirons.

Mr. Hirons: I have a question about the application.

Mr. Howard: I would like you to ask it.

Mr. Hirons: Okay, one of the things that the applicant's representative suggest, although the Chairman indicated we probably wouldn't want to ask for this at Planning Commission level was the... Mr. Leming proposed having an appraisal... county appraisal, their appraisal and find the middle ground or something. Would that really be comparing apples to apples? Because from what I heard their appraisal would be based on future value of the land and your appraisal is what it is worth today.

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Mr. Mayausky: Yes the first thing we would have to do... the first step in any appraisal is defining the problem. What is the problem? Do we want the value at its present use today or do we want a speculative future value?

Mr. Hiron: But would your office even get into speculative use?

Mr. Mayausky: We wouldn't. For example, in 2006 the total real estate in the county was worth \$18 billion; now it is down to thirteen. Speculative values are really difficult things...

Mr. Hiron: You have got to fix your numbers.

Mr. Mayausky: ... to do. I almost feel like that is a policy decision for you all. If you are going to start looking at the value of donated land as a one to one write off for cash proffers. I think you all need to decide whether you want the present use, which I would recommend or some speculative future use as the basis for that write off.

Mr. Hiron: Why would you recommend that? Would you recommend it because you're in government and that is the way government does it? Or is that an industry standard or...

Mr. Mayausky: No most appraisals are done at present use value. The speculative values are based upon so many scenarios in to the future that are beyond all of our control, they really become inaccurate. So we... most appraisers do current use value.

Mr. Hiron: Alright, thank you.

Mr. Howard: Just a quick question on that. And this is the business side of me coming out. I hear what you are saying but I have to tell you that if it were me and you were asking me to put infrastructure in and do other things so I would like it to... I have this 1965 mustang and the mustang needs a little work and I am going to put a little bit of restoration into it, but yet you want to pay me the value for the mustang before I do anything and that would be true if you were just swapping the car and buying it as is. But I caution all of us to think through this carefully because I am not sure that you can expect anyone to do future improvement on something or improve something and then not get some type of benefit after the improvement is made. Now you can argue well that land at the back of that parcel may not be worth anything even after the improvements. So that is a good debate to have. So that I think is more the debate than... because there is going to be improvement, there is going to be access, there is going to be sidewalks you know all of a sudden this land becomes different.

Mr. Mayausky: That is true.

Mr. Howard: Post development if the development is approved and happens.

Mr. Mayausky: My counter to that would be though if Stafford County was going out today to purchase 260 acres, it is going to sell at its value today, not what its value may be five, ten, fifteen years from now.

Mr. Howard: But you are also... but would... you would be purchasing 15 soccer fields in this assumption.

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Mr. Mayausky: No you would be purchasing vacant land where...

Mr. Howard: No you are not actually...

Mr. Mayausky: ... soccer will be instructed.

Mr. Howard: Right, but you are going to get the field. So where does that value get accounted for?

Mr. Mayausky: I thought it got written off of the cash proffers. But that is a policy decision for you.

Mr. Howard: No, I am pointing it out because if there is an improvement that is in writing that is agreed to, so I just think we all have to think about that and you are right it is clearly a policy decision but it is not as black and white as I think it is being stated. So that is my point, I think there is some gray in there and we have to think through that. Ms. Kirkman?

Ms. Kirkman: I was going to say, Mr. Chair, I can't find it right now, but I do seem to remember that in their breakdown of the value of... the great value of what they are doing they distinguished between the land value.

Mr. Howard: They did and their improvements.

Ms. Kirkman: And between the cost of doing the fields and the improvements. So I actually think what we are talking about here is the same thing which is simply the land value.

Mr. Howard: Well, I still think there is other infrastructure that we have to think through. You know there is no blank check out there for anybody including the county, so we can't just blindly allow in-kind proffers without valuating them or the valuation being correct, which is really the debate we are having. So thank you.

Mr. Mayausky: Thank you.

Mr. Howard: I appreciate your time. Thank you for coming down.

Mr. Mitchell: Could I ask...

Mr. Howard: Yes.

Mr. Mitchell: Scott, just let me go back to the hotels for a minute.

Mr. Mayausky: Yes.

Mr. Mitchell: There was a lot of discussion tonight on 90 rooms or 100 rooms. And from your perspective the more the hotel the more tax will be coming in. Not only tax into your office but those same people have to buy gasoline, they have to buy gasoline unless they thumb their way down Route 1, so from your perspective do you see the hotels as a positive as far as a tax generator into your office. I am not singling out Hilton.

Mr. Mayausky: Right.

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Mr. Mitchell: I am saying this hotel or any future hotel that brings in taxes to your department.

Mr. Mayausky: Yes.

Mr. Mitchell: And the residual effect.

Mr. Mayausky: Generically speaking in a non-controversial area of the county, yes it is a net benefit in tax revenue. We did estimates and again it depends upon the size of the hotel, but they were generating a direct revenue between \$150 and \$200,000 a year. And that is not accounting for the indirect revenue that you mentioned the meals tax, the fuels tax and those types of things. So they do seem to generate quite a bit of revenue for the county.

Mr. Mitchell: Sounds good. Thanks Scott.

Mr. Howard: Thank you. Bring the applicant back up. There are... there is certainly a lot to talk through on the proffers and... obviously I don't think we are going to come to any conclusion this evening.

Ms. Kirkman: At some point Mr. Chair I have some related questions.

Mr. Howard: Okay.

Mr. Leming: So okay, back to the proffers.

Mr. Howard: Mr. Leming is there anything you want to cover with us on the proffers?

Mr. Leming: I would like to point out... I guess in the context of sur-rebuttal that we just did go an exercise last fall with the... on a tax appeal case where both the county attorneys representing the Commissioner's office and our appraisers had to look at future values when water and sewer came in addition to present values where water and sewer was not present but was planned for. So all of the analysis that the appraisers went to when it came what they were worth or at least both had to cover that as well, so it is not something that unusual. On the proffers what I... do you have a red lined copy of them? What I thought might make sense...

Mr. Howard: You mentioned that earlier, I don't have a red lined copy. We have a copy that might be clean, that was changed dated 6/14.

Mr. Leming: I am sorry.

Mr. Howard: We have a clean copy. So is the date June 14th?

Mr. Leming: Yes.

Mr. Howard: Okay, then we have that copy.

Mr. Leming: We are working from the same proffers here but let me... what I can do I think is to guide you through the pages and the numbers of the proffers just to let you know what changes have been made and we won't go through all of the very minor non-substantive changes. If you look at

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proffer 2B, Commercial Development. We had and this appears on my red lined page 3, but it is proffer 2B. We have added language regarding the preparation of the commercial building pad sites and the construction of water and sewer lines to serve those sites and indicated when that would be accomplished. We also cross referenced the construction of Clift Drive which comes in at unit 141 that is the road off of Route 1 that would come through the commercial area and would provide the access to the commercial area. And that is simply reiterated there, there is a cross reference to the timing at proffer 3C. Now if you look at proffer 3B there was discussion and I think Ms.... I think it was... I think Holly is the one that requested this. This is the proffer regarding the trail that would come through the property and would actually connect, not the road, the access road that Mr. Rhodes indicated but the trail system that would come through the property and now be extended to the soccer fields off site. So there would be a pedestrian bike trail that would be constructed to accomplish that. If you will look at proffer 3D (iii) entitled alternative cash payment, you may recall that we were asked by staff to simply pay the construction estimate for the improvements at Eskimo Hill and Route 1 in the event for any reason they could not be accomplished, the primary reason would be the inability to obtain right-of-way and the county's unwillingness to obtain the right-of-way that our... at the applicant's cost if for any reason that does not happen we simply give the county the money for the construction of those improvements and there is a time period that is set up for that. There was discussion about an inter-parcel connection to the properties to the north and the south at proffer 3G we have indicated that we will provide an easement to connect to public roads to the north and south side of the property. We have gone a little bit further than that and indicated that if necessary that it would be at a width to permit these to become public roads at some point if the adjacent property owners at some point wanted to make those connections and dedicate that to the public, that we would participate in the way of providing initially the easement but then actually make the dedication so that these would become public roads. At proffer 4, dedication of land for public use. This has to do with our 262 acres and we are simply reserving for a period of time the ability to use a portion of that area, not what we are working on for the soccer fields, for a staging area. And there is a cross reference to parcel 6. The big change is at proffer 5 and this was the result of our meeting with Mr. Hirons and the various representatives of the different athletic associations in the county and the Director of Parks and Rec and Mr. Zuraf, I think was there also. What we have done is to set forth three fundamental options for the county. And there is a... the county does not have to make a choice on which to select until thirty days after the preliminary plan is approved. But there are three fundamental proposals here. The first is the original one which is simply the 15 playing fields. They would not be lit or irrigated, but 15 fields as originally proffered. We have given you some language regarding the dirt that would be used. The quality of the dirt, the seeding and grading that would be accomplished the amenities that would go with that and when they would go in, this would be the concession area and the rest rooms, the parking area. The timing is addressed and the access to the fields. The second option at B covers irrigated fields. And when we did the numbers here what it came out to is that same difference from our standpoint. We can provide 14 irrigated fields. Now these fields would be irrigated with a pond that is created so the water would be there on site. That would be the source for the irrigation. I think in both of these proffers we have even told you what kind of grass would be utilized, but 14 irrigated fields. They would not be lit and I think and Mr. Hirons can correct me if he had a different perspective, but I think the consensus of the group was that this was the preferred option because it provides for more maintenance... easier maintenance keeping the fields in better shape. From our standpoint it doesn't matter but option B is 14 irrigated fields. Then if we move on to option C and the same litany is provided here regarding the timing, the site preparation. And if you go to 5C this is six lighted and irrigated soccer fields. So you can see the way it worked out that really the big cost was for the lighting. There is some advantage to providing the irrigation up front because it is done when the field is put in and it makes a lot more sense probably than going back and tearing up the field later

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to put in irrigation. Lights on the other hand can be added at a future point in time but the lights are extremely expensive so the third option would be six lighted and irrigated playing fields and the same detail is given regarding the site preparation when the lighting would occur. I think you all know there would have to be a conditional use permit granted by the Board in order to do the lighting because of the height. That would be something the county would need to run through the process. We anticipate that would be a Board initiated CUP. We would put the lights in but that would be something instituted by the county... initiated by the county. So that has now gone on now for I think five pages is the revised proffer offering the county the options. We know that we are going to have some more time on this so look through that. If there are other questions that occur to you we can deal with that in the future.

Ms. Kirkman: Mr. Chair, I do have a question.

Mr. Howard: Yes Ms. Kirkman?

Ms. Kirkman: I thought there was a fair amount of discussion and some concerns expressed that this had been limited solely to soccer fields when in fact there was a need for other types of fields... rectangular fields in the county and the language in the proffers still continues to refer to these as soccer fields rather than athletic fields.

Mr. Leming: Well I don't think... are we limiting ourselves to soccer fields at this point?

Ms. Karnes: No, I think all the teams can use them.

Mr. Leming: I think we have... you are tight there still is some references to soccer fields. I don't think we have any objection to letting the county pick and choose what fields they want.

Ms. Kirkman: Then at that point the language in the proffer needs to say something like athletic fields or rectangular fields rather than soccer fields.

Mr. Hirons: Rectangular fields.

Mr. Leming: We can do that.

Mr. Howard: So you have no objection of changing the language to athletic rectangular fields.

Mr. Leming: No, it does not matter to us what kind of fields they are. I think there was... I think the groups that we had there, baseball was omitted, right? Because they don't use rectangular fields.

Mr. Howard: Correct.

Mr. Leming: I think we want to limit it to rectangular fields, right?

Mr. Hirons: Yes, Mr. Chairman. There was also a little bit of discussion during that meeting about the sizes of the fields and what types of uses. Basically soccer is one of the largest footprints of a sport that uses so all other sports could be played on a soccer field. And for better or worse I think the discussion has just continued to call them soccer fields. But I think Ms. Kirkman is right that the... if we could change this language from soccer to rectangular fields I think that would satisfy.

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Mr. Leming: We will take care of that. At... moving on to proffer 6B, commuter parking. We've also given you a proffer there providing for an alternative cash payment. Payment... if you don't want the parking lot here then the payment shall be provided to the county upon the request of the Board of Supervisors but not before the 200th residential dwelling unit. If the county takes the money rather than the parking lot then we don't build the parking lot. So you have a cash option with regard to that too. Pedestrian access to the soccer fields, this is a cross reference here. If you recall there is a trail that runs through the developed area and continues on to the athletic fields and again we will say pedestrian access to rectangular fields rather than soccer fields. Vehicular access... this was an issue raised by Mr. Rhodes. The access from the southern portion of the soccer fields to Eskimo Hill Road shall be constructed before or concurrent with the delivery of any soccer field to the county. If you recall there was a phasing plan for the soccer fields so whenever a soccer field is delivered the access road runs along with that. We have added some swimming pool amenities. We were asked to put in starting blocks. That is included at proffer 8... 8A. On utilities essentially what we have done at proffer 11, I invite you to look through this in some detail. We are doing all of the appropriate studies, we would make the CIP improvements at such time that they are required for the development. We... maybe depending on the nature of the improvements we maybe... they may be in the pro-rata program. But the timing issue is key from our standpoint. No one knows at this point in time and probably won't know until we get closer to the development and do the actual studies, when these major improvements are going to be necessary. If you recall I referenced these \$9 million worth of utility improvements. From our standpoint we don't want to do them until they are necessary for the development, it may even be in some cases there would be other development that would trigger them before we would have to do them. But we are the guys that are here now so they would come when the need for them arises, the capacity need... capacity is necessary, then they would be constructed. Of course we want to stay ahead of the game so it would be done in more than sufficient time to insure continuous capacity for the development. Fire and Rescue is the last proffer and I think you recall there was some discussion about automatic sprinkler systems that we had. There has been no change since we discussed that last time. We have agreed to do the standpipe system and the pre-emption... signal pre-emption equipment. So those are all the changes. If it would be helpful to you we will be happy to get you the red lined version so you can actually follow exactly what has changed since last time. Does staff have that Mike? Okay, then we are happy to provide that to you. We can email it through staff so it is available to you so you can actually look and see specifically what has been changed to the proffers.

Mr. Howard: Mr. Rhodes has a question for you Mr. Leming.

Mr. Leming: Yes.

Mr. Rhodes: Mr. Leming, I would just... I would make a suggestion that we consider for paragraph eight on the bottom of page 15 where we were talk the community center and then we get into the pool, that those be configured more like 8B, the other recreational amenities where you identify when it will be completed by verses when it will start by. We have had other location where...

Mr. Leming: Okay.

Mr. Rhodes: ... things start but never end. So I think it is better to know when it will be completed. In simile I would think there is bound to be a way to structure paragraph 11 in that manner as well. I understand your comments of waiting until demand but at some point if that's going to be a basis of

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consideration especially on the value that it presents to the county, you have got to know at some point that it is actually going to be accomplished.

Mr. Leming: I hear... I understand your point.

Mr. Rhodes: Thank you Mr. Chairman.

Mr. Howard: Thank you. Any other comments on the proffer for the applicant?

Mr. Leming: Alright, thank you all very much. I think... is there anything else that we need to cover. Mr. Giganti is here sitting patiently if anybody has any questions for him.

Mr. Howard: Any question for D. R. Horton?

Mr. Leming: Alright, thank you very much for your time this evening.

Mr. Howard: Thank you. Alright is there a motion to defer this to July 18th?

Ms. Kirkman: I had a question for staff.

Mr. Howard: Yes, Ms. Kirkman.

Ms. Kirkman: This is actually Mr. Zuraf. The applicant's representative has stated that the methodology for the proffer guidelines is fundamentally flawed because it included current costs as well as future costs. If we could get something from staff about the construction of the methodology. But also I seem to remember that in a former iteration of the Comprehensive Plan when myself, Mr. Di Peppe and Mr. Mitchell served on the sub-committee we went through an exhaustive process with Mr. Hess, I think handled most of it, of trying to get an handle on what the incremental costs were. And if we could get some of that material it probably would be the fiscal impact... it was one of the chapters that ultimately was deleted from the comprehensive plan. But if we could get that information.

Mr. Zuraf: Not the... for clarification. Not the capital costs of growth.

Ms. Kirkman: I don't remember what it was called, but it was where we really figured out a... you know, a single-family home with X kids adds this much expense for schools, this much for parks, this much for transportation, this much for fire and rescue.

Mr. Zuraf: Yes, okay.

Ms. Kirkman: Thank you.

Mr. Mitchell: Mr. Chairman?

Mr. Howard: Yes.

Mr. Mitchell: Just a quick note. I did serve on the committee with Ms. Kirkman and I did vote against the way that it was figured up.

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Mr. Howard: Okay. Can we also get a copy of the ordinance that we adopted which was the new proffer guideline ordinance, just to have in the next package?

Mr. Harvey: Mr. Chairman, are you referring to the conditional zoning amendment? Where we are taking on the new state legislation?

Mr. Howard: No, I thought we... I thought we were looking at new proffer guidelines, to be more compliant or give us more flexibility. Maybe it was the...

Mr. Harvey: Yes, that is conditional zoning.

Mr. Howard: Okay, then we don't need that. Alright, is there a motion to defer...

Mr. Hirons: I move to defer this issue to...

Mr. Howard: Well, you are going to defer the reclassification of Clift Farm Quarter?

Mr. Hirons: Yes.

Mr. Howard: To 7/13?

Ms. Kirkman: Mr. Chair. Just... I think our practice has been that the representative from the district.

Mr. Howard: Typically, but I...

Mr. Hirons: This... well, I guess there was debate. Never mind. This is in the new Falmouth district but I guess they have not been adopted yet.

Mr. Howard: Well, no this came up the last time. I don't think Mr. Mitchell has an issue with you making the motion. It does not matter to me.

Mr. Mitchell: I will gladly make the motion and request Mr. Hirons to...

Mr. Howard: Alright we need a motion.

Mr. Hirons: Second.

Mr. Howard: So there is a motion...

Mr. Mitchell: To defer.

Mr. Howard: There is a motion by Mr. Mitchell to defer RC29000108 which is the reclassification of Clift Farm Quarter to the 7/13 and it is seconded by Mr. Hirons.

Mr. Hirons: Yes.

Mr. Howard: Any discussion?

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Ms. Kirkman: Both of whom claim ownership...

Mr. Howard: Both of whom claim ownership of this...

Mr. Hirons: Or try not to claim ownership.

Mr. Howard: These...

Mr. Hirons: He has the soccer fields.

Mr. Howard: ... 400 and something acres.

Mr. Rhodes: And we are looking forward to hopefully and potentially some further discussion on the different elements of consideration in the various projections on cost associated with benefits that were discussed here tonight.

Mr. Howard: Correct. We would expect that by the next package or sooner if possible because we don't have a meeting on the first Wednesday in July.

Mr. Hirons: And if I am not mistaken we only... the July 13th meeting I believe it is...

Mr. Howard: Correct.

Mr. Hirons: ... is our last meeting...

Mr. Rhodes: Is the last time before this deadline.

Mr. Hirons: ... before this time limit expires, correct?

Mr. Rhodes: That is correct.

Mr. Howard: Yes. Correct. Alright all those in favor of the motion of deferring item number one on the agenda to the 7/13 meeting signify by saying aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay? The motion carries 5-0. That brings us back to item 2, which we moved to item 7 which would come up now anyway. Item 2, I guess this is Ms. Ansong. Boy wasn't she happy to hear that when we moved that?

2. RC2900193; Reclassification - Aquia Hilton Extended Stay Hotel - A proposed reclassification from R-1, Suburban Residential to B-2, Urban Commercial Zoning District to allow a hotel on

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*Assessor's Parcel 21-63 consisting of 3.02 acres, located on the west side of Jefferson Davis Highway, 600 feet north of Coachman Circle (south access) within the Aquia Election District.
(Time Limit: August 30, 2011) (Deferred at June 1, 2011 Meeting to June 15, 2011 Meeting)*

Ms. Ansong: Yes.

Mr. Howard: Welcome back.

Ms. Ansong: Thank you. Good evening Mr. Chairman and members of the Planning Commission. On June 1st I presented the reclassification for the Aquia Hilton Extended Stay Hotel during the public hearing. Upon completion of that presentation several members of the Planning Commission had questions regarding that case. Therefore today I stand before you to present the answers to the question that were brought up during that June 1, 2011 Planning Commission meeting. In your packet there should be a memo from staff. The memo contains attachments regarding the questions that were asked during that June 1st meeting. There were six, I believe six items that were brought up. So the attachments...

Mr. Howard: Thank you Mr. Mayausky. I appreciate it.

Mr. Mayausky: Thank you.

Ms. Ansong: The attachments you have before you, they address the questions and the concerns that were brought up. We have a copy of the real estate taxes. There is also a correction to the impact statement regarding the floor area ratio. There is also a change to the proffers regarding the trash dumpsters and the screening. There is also a copy of the letters concerning the zoning determination request and response letter. There is also correspondence from the fire department regarding the parcel. And there is a calculation regarding the floor area ratio. Are there any questions?

Mr. Howard: I don't think so. We do have in our possession a letter that is dated January 11, 2008 from, I am really not sure who it is from.

Ms. Ansong: The letter, I believe... I think one is from our Zoning Administrator, Rachel Hudson. Is that the one you are looking at?

Mr. Howard: It's from Ms. Hudson.

Ms. Ansong: Okay.

Mr. Howard: This is the one on the CPRA... I am sorry the CRPA.

Ms. Ansong: That is right.

Mr. Howard: So a letter was writing requesting clarification on the required CRPA buffer area for the property at 3501 Jefferson Davis Highway, right?

Ms. Ansong: Yes.

Mr. Howard: Is that correct?

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Ms. Ansong: Yes.

Mr. Howard: Alright.

Ms. Ansong: Yes.

Mr. Howard: Okay. Okay, thank you. Are there questions? No questions. Okay.

Mr. Mitchell: Mr. Chairman, I would make a motion for RC29000193, Reclassification, Aquia Hilton Extended Stay Hotel.

Mr. Rhodes: Second.

Mr. Howard: You are recommending approval in your motion?

Mr. Mitchell: Recommending approval.

Mr. Howard: Okay. Second by Mr. Rhodes.

Mr. Rhodes: Yes sir.

Mr. Howard: Any discussion? Ms. Kirkman.

Ms. Kirkman: I just wanted to make sure the motion maker didn't have anything to say first.

Mr. Howard: I don't think he did. Thank you.

Ms. Kirkman: Mr. Chair, I am going to oppose this. Again I think hotels may in fact be a valuable revenue source for the county but this is the wrong place building a hotel in the middle of a resource protection area around a creek actually cost us money in the long run when we have to clean up the mess.

Mr. Howard: Thank you. Any other comments? Hearing none I will now call for the vote. The vote... the motion is to recommend approval for RC29000193, the Reclassification for Aquia Hilton Extended Stay Hotel. All those in favor of the motion signify by saying aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay?

Ms. Kirkman: Nay.

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Mr. Howard: The motion carries 4 to 1. Thank you. I appreciate everyone's patience on that. We will now go to the new business which is the Telecommunication Plan, which we moved on to the agenda from last meeting.

***4. Telecommunications Plan (Time Limit: August 1, 2011)
(Authorize for Public Hearing by: June 15, 2011)
(Potential Public Hearing Date: July 13, 2011)***

Mr. Harvey: Yes, thank you Mr. Chairman. First I must apologize to the Commission. I failed to provide the reference material and the appendix, specifically, maps dealing with existing cell tower locations as well as county properties and corresponding charts and tables that go with that. The Telecommunications Plan is a product of a joint committee of the Planning Commission and Telecommunications Commission. It was done at the request of the Board of Supervisors to update our current document, which is approximately nine years old. This document would bring us up into more modern standards by eliminating some spacing criteria, which is in the current plan. Since that time technology has changed, whereas with the use of personal communication devices that download information off the internet and higher data speeds, the former distance between communication towers is greatly been reduced as far as actual needs. There are a number of factors in the plan that are being taken care of. The Committee had looked at also streamlining the plan so it is a little but reader and user friendly. The plan starts off with an introduction, a needs assessment, a statement of intent, location policies, overall coverage plan, countywide siting criteria, design standards, a section on health and safety, broadband access considerations, implementation policies and appendixes. In discussing the issue on this plan with the County Administrator earlier today, he had a suggestion that I bring to the Commissions attention. In the facility design standards he was noting to me that as a standard condition for new communication towers we typically ask they provide space for the county on the tower and also on the ground. But that is not spelled out anywhere in the document specifically, so I will throw that out to the Commission if that is a consideration that the Commission may want to put in to the design standards provisions.

Mr. Howard: Can you just review that again Mr. Harvey?

Mr. Harvey: Typically when we get an application for a conditional use permit to construct a new tower in the county we ask that the applicant provide or have available space on the tower as well as on the ground lease area for future use by the county.

Mr. Howard: By the county.

Mr. Harvey: If needed.

Mr. Howard: Yes, we should have that in there.

Mr. Harvey: That would be at no cost to the county as well.

Mr. Howard: Everyone agree?

Mr. Rhodes: Yes.

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Mr. Howard: Is that the will? Okay, I think that makes sense. And that would be... if we vote to send this to public hearing that would be part of that, you would add that in there.

Mr. Harvey: Yes I would add that in as design standard 14 on page 12 of 21.

Mr. Howard: Okay, I think that makes sense.

Mr. Harvey: And Mr. Chairman, based on the time frame on which the Board established for this process, the Commission should consider authorizing the public hearing for this plan amendment tonight.

Mr. Howard: We certainly should. Thank you. I will bring it back to the Commission for discussion.

Ms. Kirkman: I have a question for staff.

Mr. Howard: Yes?

Ms. Kirkman: Mr. Harvey, the very last map, or maybe Mr. Rhodes, I think were you on this Committee... oh, Mr. Hirons. What's the intent or purpose of the very last map that we have about the county owned parcels?

Mr. Hirons: Mr. Harvey you may be able to help clarify what I may mangle here, but I believe it was to identify... because one of the siting criteria speaks to county facilities, county property and this was to identify some county locations that cell towers could be placed. Is that... you can probably actually, like I said, clarify what I mangled.

Mr. Harvey: Yes the... figure 2 as well as table 2 provided information... it strictly is informational purposes if what county properties are greater than five acres in size where people may potentially locate future communication towers. The thought process was that by encouraging future towers if they are needed to be built on county property. Typically a county property is fairly large in size so there would be substantial setbacks from the property line and the nearby community. Also it would give the county a little bit more control over the maintenance and operation of those types of towers and it could also be a revenue source for the county too, because there are advantages potentially for tower leases because the tower owner would pay the county money to lease space on the county's property.

Ms. Kirkman: So I am particularly interested in the Crow's Nest parcel. Does the county have title of that parcel? Because I thought the State did.

Mr. Harvey: I see there are a number of... it looks like areas identified around there. But that State Park, part of it was purchased with cooperation of the county. I believe we are joint owner on one piece. But that would be prohibited based on the current deed restrictions on that property for anything like this so we probably ought to eliminate...

Mr. Howard: Have that removed. Yes, why don't you.

Mr. Harvey: Eliminate that section.

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Ms. Kirkman: I was hoping staff was not suggesting that we build cell towers on Crow's Nest.

Mr. Harvey: No.

Mr. Howard: Well, there is nobody out there.

Mr. Harvey: No, certainly not.

Mr. Hirons: I would say also and I wanted to bring this up and bring to your attention we made certain there were a couple disclaimers at the bottom of these maps and that one actually does speak to, depending upon specific location...

Mr. Howard: I think taking it off the map takes the confusion away.

Mr. Hirons: At any rate... yes that is fine. At any rate I would bring it to your attention the disclaimer on the first map, we asked for one mile radius to be put on the existing cell towers. What we did not want to indicate was we want a cell tower every mile. So the disclaimer at the bottom hopefully will alleviate that to a certain extent.

Mr. Howard: Okay. So we are in agreement with the change under item 14. It seems like the will of the Commission agrees with removing Crow's Nest as a future site. Is there any other discussion or questions? Any motion?

Mr. Hirons: Can we move to advertise the Telecommunications Plan for public hearing?

Mr. Rhodes: July 13th?

Mr. Hirons: That will be for the July 13th meeting.

Mr. Howard: Is that your motion Mr. Hirons?

Mr. Hirons: With the changes that were discussed and accepted.

Mr. Rhodes: Second.

Mr. Howard: Second by Mr. Rhodes. Any discussion? Very good job on this. I know Mr. Fields is not here this evening, he has an excused absence, but I am sure he will watch the tape with vim and vigor. Mr. Fields did a good job and I know Mr. Hirons did as well and so did staff. A very thoughtful plan.

Mr. Hirons: And with that you also have to thank the members of the Telecommunications...

Mr. Howard: Absolutely.

Mr. Hirons: ... that participated as well.

Mr. Howard: Very good, very well done. I will now call for the vote. All those in favor of sending this to public hearing on July 13th signify by saying aye.

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Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay? The motion carries 5-0. And that moves us to the Planning Directors Report.

PLANNING DIRECTOR'S REPORT

Mr. Harvey: Thank you Mr. Chairman. I want to let the Commission know we have one site plan for Technical Review Committee for the July 13th meeting. Due to the fact that the Commission changed its schedule for July, now we have in this case a TRC the same day as a Planning Commission meeting. So if a Commissioner is available that would be great. This is for a site plan for industrial use in the Potomac Creek Industrial Park, within the Aquia district.

Mr. Howard: What time is that meeting?

Mr. Harvey: That would be 9:00 a.m.

Mr. Howard: 9:00 a.m. alright.

Mr. Harvey: Also for the Commission's information, Rhodeside and Harwell which is our UDA consultant will be making a presentation to the Board of Supervisors on June 21st. They have also requested that they be able to come to the Commission for your July meeting and make the same presentation. I would like to offer that up for your input, whether that is acceptable.

Mr. Howard: Everyone is nodding, I think in agreement. That would be fine.

Mr. Harvey: Thank you. At the last Board of Supervisors meeting, the Board did adopt the amendments to the Comprehensive Plan. So we now have our UDAs in compliance with State law. Staff is working to make the December amendment plus the June amendment into one cohesive document. As soon as we have that prepared, we will provide you with copies.

Mr. Howard: Great.

Mr. Harvey: And provided to you at your desks... or in your mailout... a brochure on TDRs or actually an article from the Washington Business Journal on TDRs. And it seems that the subject of TDRs is picking up traction throughout the state. And there will some more information on that coming forward to you. The Board of Supervisors tentatively has that on their agenda for potential referral on July 5th.

Mr. Howard: Okay.

Mr. Harvey: That concludes my report.

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Mr. Howard: Great, thank you. Mr. Smith, County Attorney's report.

COUNTY ATTORNEY'S REPORT

Mr. Smith: No report Mr. Chairman.

Mr. Howard: Thank you. The TDR I know is in joint committee. I do not have a Chairman's report. The meeting is now adjourned. Thank you.

COMMITTEE REPORTS

8. Transfer of Development Rights (TDRs) (**In Joint Committee**)

CHAIRMAN'S REPORT

OTHER BUSINESS

APPROVAL OF MINUTES

Mr. Rhodes: Minutes.

Mr. Howard: Oh, we have minutes, sorry.

April 20, 2011

Mr. Rhodes: I make a motion for approval of the April 20th Planning Commission Minutes.

Mr. Mitchell: Second.

Mr. Howard: Any discussion? Call for the vote. All those in favor of approving the April 20th minutes, signify by saying aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hiron: Aye.

Mr. Howard: Aye. Opposed nay? The motion carries 5-0.

May 4, 2011

Mr. Rhodes: I make a motion for approval of the May 4th Planning Commission minutes.

Mr. Mitchell: Second.

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Mr. Howard: Any discussion? All those in favor of approving the May 4th minutes, signify by saying aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay? The motion carries 5-0. The meeting is now adjourned, officially.

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 9:41 p.m.